

# The 2012 worldwide VAT, GST and sales tax guide

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## Preface

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The *Worldwide VAT, GST and Sales Tax Guide* is part of a suite of premier tax guides published by Ernst & Young. The others are the *Worldwide Corporate Tax Guide*, *The Global Executive* and, new this year, the *Estate and Inheritance Tax Guide*. Each represents thousands of hours of tax research, and within the limits of annual publications, they are the most reliably comprehensive guides available.

Since the global financial crisis, many governments have raised their indirect taxes on consumption, especially their value-added taxes (VATs) and goods and services taxes (GSTs). Some have raised their rates several times and also modified their consumption tax bases. This churning of consumption tax law makes a current, detailed guide like this one all the more valuable.

The content of the *Worldwide VAT, GST and Sales Tax Guide* is straightforward. Chapter by chapter from Albania to Zimbabwe, we summarize consumption tax systems in 101 jurisdictions and the European Union (EU). The content is current on 1 January 2012, with exceptions noted.

Each chapter begins with contact information for the key people in that country's Ernst & Young offices. Then we lay out the facts about the jurisdiction's indirect taxes, beginning with an at-a-glance summary. With some variation, the topics covered are the scope of the tax, persons liable, tax rates, exemptions, time of supply, the recovery of the tax by taxable persons and nonestablished businesses, invoicing, tax returns and payments, and many more. In addition, for EU countries, the guide includes information on INTRASTAT reports and EU Sales Lists.

At the back of the book, readers will find a list of the names and symbols for all national currencies.

Ernst & Young publishes other Indirect Tax publications, including current *Tax Alerts*, the *Indirect Tax Briefing* newsletter and *Indirect Tax in 2012*, which discusses the changes in VAT, GST, excise duties, customs duties and environmental taxes for the upcoming year. Find them at [ey.com/indirecttax](http://ey.com/indirecttax).

Find electronic versions of the *Worldwide VAT, GST and Sales Tax Guide* and other tax publications on [ey.com](http://ey.com) and mobile versions at various app stores.

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Although this publication is intended to be comprehensive, it should not be regarded as offering advice or a complete explanation of the tax matters referred to and is subject to changes in the law and other applicable rules. Also, this publication does not provide guidance on the local application of the law in practice. Local publications of a more detailed nature are frequently available, and readers are advised to consult their local Ernst & Young professionals for further information.

### **About Ernst & Young's Tax services**

Your business will only achieve its true potential if you build it on strong foundations and grow it in a sustainable way. At Ernst & Young, we believe that managing your tax obligations responsibly and proactively can make a critical difference. Our global teams of talented people bring you technical knowledge, business experience and consistent methodologies, all built on our unwavering commitment to quality service — wherever you are and whatever tax services you need.

Effective compliance and open, transparent reporting are the foundations of a successful tax function. Tax strategies that align with the needs of your business and recognize the potential of change are crucial to sustainable growth. So we create highly networked teams who can advise on planning, compliance and reporting and maintain effective tax authority relationships — wherever you operate. You can access our technical networks across the globe to work with you to reduce inefficiencies, mitigate risk and improve opportunity. Our 29,000 tax people, in over 140 countries, are committed to giving you the quality, consistency and customization you need to support your tax function. It's how Ernst & Young makes a difference.

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Tatimi mbi Vleren e Shtuar (TVSH)
Date introduced	27 April 1995
European Union (EU) member state	No
Administered by	General Directorate of Taxes of Albania
VAT rates	
Standard	20%
Reduced	10%
Other	Zero-rated and exempt
VAT number format	A23456789B
VAT return periods	Monthly
Registration thresholds	
Supply of domestic goods	Annual turnover of ALL 5 million
Exporters and importers	Automatically registered regardless of turnover
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services performed by a taxable person in Albania.
- Importation of goods into Albania, regardless of the status of the importer.
- Services purchased by taxable persons in Albania from service providers whose place of business is outside Albania. Such services are subject to the reverse-charge mechanism.

## C. Who is liable

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

For domestic supplies and for services subject to the reverse-charge mechanism, the obligation to register for VAT purposes and charge VAT is triggered when annual turnover exceeds ALL 5 million, except for the supply of professional services, for which the threshold is ALL 2 million. The obligation to register is effective from 1 January of the year following the year in which the threshold is exceeded. If the business begins during the year, the amount of the threshold taken into account is the portion of the annual threshold corresponding to the months of operation.

An option is available for entrepreneurs to register earlier or on the beginning of their economic activity.

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

**Group registration.** The Albanian VAT law does not allow group registration.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Albania. A nonestablished business that makes supplies of goods or services in Albania must appoint a VAT representative to register for VAT if it is liable to account for Albanian VAT on the supplies. The VAT representative must be resident in Albania.

The VAT representative may act on behalf of the taxable person for all purposes related to VAT and is jointly responsible for compliance with all VAT obligations.

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services except for exempt supplies. The term “exempt supplies” refers to supplies of goods and services that are not subject to VAT and that do not give rise to an input VAT deduction.

The VAT rate for taxable supplies is 20%. The reduced rate of 10% applies to the supply of medicines and medical care services. Exports of goods, international transportation services and related supplies, as well as supplies of goods and services relating to maritime activities, are zero-rated.

The use of goods or services purchased or produced in the course of the business activity for private purposes constitutes a taxable supply.

The following tables provide examples of exempt supplies of goods and services and zero-rated supplies of goods and services (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

- Supply and rent of land and buildings
- Financial services
- Postal services
- Education services
- Hydrocarbon exploration operations
- Printing and sale of publications
- Media advertising
- Betting, lotteries and gambling
- Services supplied outside Albania

### Examples of zero-rated supplies of goods and services

Exports of goods

International transport

Services relating to maritime activities

### E. Time of supply

A supply of goods or services is considered to be performed at the moment when a receipt is required to be issued or when goods or services are delivered. If the payment is made before delivery of goods or services, the moment of supply is the moment when the payment is made. Special rules apply to construction companies.

### F. Recovery of VAT

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

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

**Nondeductible input tax.** The following list provides examples of items of expenditure for which input tax is not deductible (this list is not exhaustive).

#### Examples of items for which input tax is not deductible

Expenditure on fuel unless the payer is a company that purchases the fuel for trading purposes and the gasoline is used solely for carrying on a taxable economic activity

Expenditure on trips and per diems, hotel accommodation and recreation activities, in the course of an economic activity

Expenditure on cars, unless the business activity is the acquisition of the cars for resale or unless the use of cars is the only economic activity (for example, renting, taxi services, and ambulances)

Expenditure relating to publicity and promotional articles

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

$$\text{Amount of relevant input VAT} \times \frac{\text{taxable turnover} + \text{exports}}{\text{taxable turnover} + \text{exports} + \text{exempt supplies}}$$

The pro rata VAT calculation is tentatively based on the preceding calendar year’s results. It must be adjusted by 31 January of the following year if the difference between the tentative ratio and the actual ratio is more than 20%.

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

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

Capital goods adjustment applies for a period of five years. The adjustment is applied each year following the year of use. It is applied to 1/5 of the total input tax. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

**Write-off of bad debts.** Taxable persons who have not received partial or total payment for a taxable supply may claim the VAT charged as input tax if all of the following conditions are satisfied:

- The debt has remained outstanding for more than six months.
- The amount has been written off.
- A court has declared the debtor to be insolvent.

**Refunds.** Albania refunds VAT incurred by VAT-registered persons. Nonestablished businesses may not obtain refunds of VAT incurred in Albania. Taxpayers making exempt supplies only cannot claim a refund of the input VAT incurred in the course of their business activities.

A taxpayer may claim a VAT refund if both of the following conditions are satisfied:

- The taxpayer carried forward the relevant amount as a VAT credit balance in the following three consecutive months.
- The amount claimed exceeds ALL 400,000.

The taxpayer must file a "Request for Refund" form, prescribed in the VAT law, with the relevant tax office. The tax office must verify the fulfillment of the refund conditions and approve the refund within 30 days.

## G. Invoicing

**VAT invoices and credit notes.** A taxable person must provide a VAT invoice for all taxable supplies made, including exports. The invoice must comply with the requirements set out in the VAT law. A VAT credit note may be used to reduce the VAT charged on a supply of goods or services; a debit note may be used to increase the amount of VAT. Tax credit and debit notes must be cross-referenced to the original VAT invoice.

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

## H. VAT returns and payments

The tax period is a calendar month. Purchase and sales ledgers must be submitted monthly by the fifth day of the following month. VAT returns must be submitted monthly by the 14th day of the month following the tax period. The deadline for VAT payment is the same as the deadline for the filing of VAT returns.

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

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

**VAT deferral scheme.** The VAT deferral scheme applies to the importation of machinery and equipment used for the business purposes of the Albanian taxpayer, regardless of the type of economic activity. VAT payment on such machinery and equipment may be deferred for up to 12 months from the moment of importation. VAT liability is payable by the end of the 12-month period in a lump sum. For projects with an investment implementation phase of longer than 12 months, deferral of VAT is extended on fulfillment of requirements set out by the Ministry of Finance of Albania.

**Penalties.** The Albanian Tax Procedures Law (No. 9920, dated 19 May 2008), as amended, provides for the penalties described below.

Noncompliance with the requirement to register or to update the status of registration data triggers a penalty of ALL 25,000.

Each late tax filing is subject to a penalty of ALL 10,000.

Late payment of a tax obligation triggers a penalty amounting to 5% of the tax due for each month of delay, capped at 25% of the unpaid tax liability. In addition, default interest applies.

Erroneous completion of a tax filing or a tax refund claim is subject to a penalty of 5% of the undeclared tax liability or the excess tax refund claimed for each month of delay, capped at 25% of the relevant tax amount. In addition, default interest applies.

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

Improper administration of sales and purchases books and documentation is subject to a penalty of ALL 50,000.

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

Criminal offenses carried out by taxpayers are penalized under the Criminal Code. These offenses relate to certain situations, including, but not limited to, the following:

- Taxpayers willfully engaging in fiscal evasion
- Taxpayer not paying taxes to the state budget
- Taxpayers destroying and concealing important tax documents and information

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## Argentina

(Country code 54)

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**A. At a glance**

Names of the taxes	Value-added tax (VAT) Turnover tax
Local names	Impuesto al valor agregado (IVA) Impuesto sobre los ingresos brutos (IIBB)
European Union (EU) member state	No
Administered by VAT	Federal Administration for Public Revenues ( <a href="http://www.afip.gov.ar">http://www.afip.gov.ar</a> )
IIBB	The revenue service of each province (Dirección General de Rentas)
VAT rates	
Standard	21%
Reduced	10.5%
Increased	27%
Other	Zero-rated and exempt
IIBB rates (average)	
Industrial	1% to 3%
Commerce and services	3.5% to 4.5%
Commission and intermediation	4.9% to 6%
VAT number format	30-99999999-1 (CUIT number)
IIBB number format	900-0000000-1
VAT and IIBB return periods	Monthly
Thresholds for registration	
VAT	For corporations and other legal entities, commencement of activity For individuals, registration required if sales are the higher of the following: ARS 300,000 for goods ARS 200,000 for services
IIBB	Commencement of sales activity
Recovery of VAT or IIBB by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- Supply of goods or services made in Argentina by a taxable person

- Reverse-charge services received by a taxable person in Argentina
- The importation of goods from outside Argentina

IIBB applies to the supply of goods or services made in Argentina by a taxable person.

### C. Who is liable

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

VAT registration is mandatory in the following circumstances:

- Corporations or other legal entities: on commencement of activities
- Individuals: if annual taxable turnover from supplies of goods exceeds ARS 300,000 and annual taxable turnover from supplies of services exceeds ARS 200,000

**IIBB.** A registered IIBB payer is a business entity or individual who makes taxable supplies of goods or services in the course of doing business in Argentina. Registration is required on commencement of activities. No turnover threshold applies.

**Group registration.** In general, grouping is not allowed under Argentine law for VAT or IIBB. Legal entities that are closely connected must register for VAT or IIBB individually. Exceptions apply for joint ventures.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Argentina. A nonestablished business must register as a taxpayer for VAT or IIBB if it makes supplies of goods or services in Argentina and if it is required to account for VAT on its supplies. To register for VAT or IIBB, a nonestablished business is not required to appoint a tax representative.

### Reverse-charge services

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

*IIBB.* The reverse charge does not apply for IIBB purposes.

**Late registration penalties.** Penalties and interest are assessed for late registration for or payment of VAT or IIBB. Penalties also apply to VAT or IIBB fraud.

### D. Indirect tax rates

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

In Argentina, the following four rates of VAT apply:

- Standard rate: 21%
- Reduced rate: 10.5%
- Increased rate: 27%
- Zero rate (0%)

The standard rate of 21% applies to all supplies of goods or services, unless a specific measure imposes the higher rate or provides for a reduced rate, the zero rate or an exemption.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced or increased rate of VAT (the lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Education

Rental of real estate under certain conditions

Books

Certain staple foods (for example, water and milk for certain buyers)

Local passenger transportation rendered by cabs (less than 100 km)

International transportation

Interest on preferred shares and equity securities, bonds and other securities issued by the federal government, provinces and municipalities

**Examples of goods taxable at 0%**

Exported goods

Exported services

**Examples of goods and services taxable at 10.5%**

Interest and commissions on loans made by banks

Sale, preparation, manufacturing or construction and final import of certain capital assets

Long distance passenger transportation (over 100 km)

**Examples of goods and services taxable at 27%**

Telecommunications not used exclusively in a dwelling

Supply of gas, electric power and water not used exclusively in a dwelling

Sewage disposal and drainage services

**IIBB.** The term “taxable supplies” refers to supplies of goods and services that are liable to IIBB, including supplies at the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax.

In Argentina, numerous rates of IIBB currently apply. The standard rates between 1% and 3% apply to industrial activities, the medium rates between 3.5% and 4.5% apply to commercial activities, and the increased rate of up to 6% applies to commissions and intermediation services. A zero rate applies in some cases.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at different rates of IIBB in the Province of Buenos Aires (the lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Education

Rental of real estate under certain conditions



Interest on bank accounts and fixed term deposits  
 Manufacturer activities under certain conditions  
 Sales of fixed assets

**Examples of goods and services taxable at 0%**

Exported goods  
 Exports of services in some jurisdictions

**Examples of goods and services taxable at 3%**

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

**Examples of goods and services taxable at a rate  
 between 3.5% and 4.5% (depending on the jurisdiction)**

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

**Examples of goods and services taxable at 6%**

Sales of tobacco  
 Banks and intermediation  
 Commissions

**E. Time of supply**

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

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

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

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

**F. Recovery of VAT by taxable persons**

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

deducted from output tax (also known as debit VAT), which is VAT charged on supplies made.

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

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

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of expenditure related to a taxable business use for which input tax is deductible (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Accommodation

Private use of business assets

Parking

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

Advertising

Books

Business gifts

Purchase, lease or hire of a car, up to a threshold of ARS 4,200 (except for cabs)

Business entertainment

Purchase, lease or hire of vans and trucks

Mobile phones

Travel expenses

Taxis

**Refunds.** The measures regarding refunds applies only to VAT, not to IIBB. If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period.

A taxable person that has paid too much VAT in a period in error may request a refund of the overpaid amount. Interest is paid by the VAT authorities on overpaid tax at the rate of 0.5% per month.

**G. Recovery of VAT by nonestablished businesses**

Argentina does not refund VAT incurred by businesses that are neither established in Argentina nor registered for VAT there. However, a VAT refund system does apply to purchases made by foreign tourists.

**H. Invoicing**

**Sales invoices and credit notes.** A taxable person must generally provide a VAT sales invoice for all taxable supplies made, including

exports. A VAT invoice is necessary to support a claim for input tax deduction.

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

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

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

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

## I. VAT and IIBB returns and payment

**Returns.** VAT and IIBB returns are submitted for monthly periods. Returns and payment in full are due between the 12th to the 22nd day of the month following the end of the return period. The actual due date depends on the last figure of the taxpayer’s identification number and the due date may vary from month to month.

Return liabilities must be paid in Argentine pesos. VAT payments may be offset by a credit balance arising from another tax collected by the Federal Administration for Public Revenues. This measure does not apply to IIBB.

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

**Penalties.** Penalties are imposed for errors and omissions with respect to VAT or IIBB accounting. These penalties include the following:

- A penalty ranging from ARS 200 to ARS 400 for failure to file a tax return
- A penalty ranging from 50% to 100% of the tax due for unpaid VAT or IIBB
- Fines of up to 10 times the amount of tax evaded

In addition, interest is assessed at a rate ranging from 2.5% to 3% monthly on unpaid VAT or IIBB amounts.

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

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Avelacvats arzheqi hark
Date introduced	1 July 1993
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.minfin.am">http://www.minfin.am</a> ) State Revenue Committee ( <a href="http://www.taxservice.am">http://www.taxservice.am</a> )
VAT rates	
Standard	20%
Other	0%
VAT number format	
Legal entities and sole entrepreneurs	Tax identification number/1
Physical persons	Tax identification number/0
VAT return periods	
Monthly	For persons that had VAT taxable turnover during the preceding calendar year in excess of AMD 100 million
Quarterly	For persons that had VAT taxable turnover during the preceding calendar year of AMD 100 million or less
Thresholds	
Registration	AMD 58,350,000 for the calendar year
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions that are considered to be carried out in Armenia:

- Supply of goods (including produced and purchased goods, fixed assets, real estate and other goods) to persons for full or partial compensation (including barter transactions) or as a gratuitous supply
- Rendering of services (including sales of intangible assets and lease of goods and real estate) to other persons for full or partial compensation (including barter transactions) or as a gratuitous supply
- Importing goods into Armenia for free circulation with certain exceptions specified by the law

### C. Who is liable

All individuals, legal entities and enterprises without the status of a legal entity that carry out independent economic activities and conduct VAT taxable transactions are considered VAT payers from the moment when they reach the VAT threshold (AMD 58,350,000) calculated for the calendar year. Persons whose VAT taxable turnover during the preceding calendar year did not exceed AMD 58,350,000 are not considered VAT payers with certain exceptions specified by the law. Specific VAT registration is not required.

Persons considered VAT payers must submit an application (in a form established by the government of Armenia) to the tax authorities for registration as a VAT payer and for the use of a VAT number within 30 days after the date on which the person became a VAT payer. The application can be submitted either electronically or in a paper version.

Persons conducting VAT taxable transactions that are not considered VAT payers may voluntarily become VAT taxpayers by submitting an appropriate written statement to the tax authorities.

**Group registration.** The Armenian VAT law does not provide for group reporting of VAT. Each group member company must report VAT individually.

**Nonestablished businesses and tax representatives.** A “nonestablished” business is a foreign business that does not have a fixed establishment in Armenia. Such a business cannot register for VAT even if it makes taxable supplies of goods and services in Armenia. Reverse-charge VAT generally applies to supplies of goods and services and imports made by nonestablished businesses in Armenia (see *Reverse charge*).

The Armenian VAT law does not provide rules for tax representatives.

**Reverse charge.** Special reverse-charge rules apply to nonestablished businesses conducting VAT taxable entrepreneurial activities in Armenia. Armenian persons (citizens, individual entrepreneurs, legal entities and local and state government bodies) that have contractual relations with foreign businesses are responsible for paying VAT instead of such nonestablished businesses according to the terms and procedures established by the law.

An Armenian person engaged in business activities with a non-established business may issue a tax invoice indicating its own tax identification number and VAT number on behalf of a foreign

entity that is not registered in Armenia as a person supplying goods or services. This tax invoice is considered to be issued by the foreign supplier.

**Late-registration penalties.** No late-registration penalties are imposed in Armenia.

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are subject to VAT. The term “exempt supplies” refers to supplies of goods and services that are within the scope of VAT taxation but are specifically exempted from VAT taxation. Such exempt transactions do not give rise to a right of input tax deductions (see Section F). Supply of goods and services that are outside the scope of VAT also do not give rise to a right of input tax deductions.

The VAT rates are 20% (standard rate) and 0%. The 20% rate applies to supplies of goods and services unless a specific measure provides the zero rate or an exemption.

The following tables list examples of VAT-exempt supplies of goods and services, and transactions that are taxed at the zero rate of VAT (these lists are not exhaustive).

##### **Examples of exempt supplies**

Supply of education at secondary schools, vocational schools for qualification and requalification and specialized secondary and higher educational institutions

Supply of copy books and music books, albums for drawing, children’s and school literature and school educational publications

Sale of scientific and educational editions published by higher educational institutions, specialized scientific organizations and the National Academy of Sciences of Armenia

Supply of scientific and research works

Supply of services related to the care of children in preschool institutions, care for persons in boarding schools, children’s homes, institutions caring for disabled children and invalids and nursing homes, as well as supply of goods produced and services rendered by the persons living under the care of these institutions

Supply of newspapers and magazines

Supply of insurance and reinsurance, including related services rendered by insurance mediators (third parties who establish insurance relationships between insurers [reinsurers] and policyholders and support the implementation of organizational, legal and other activities) and agents

Supply of pension insurance, including related services rendered by mediators and agents

Supply of financial services by banks, persons participating in securities’ markets, payment and settlement organizations and lending organizations (certain cases)

Supply of prosthetic and orthopedic items, medical assistance services (including prophylactic diagnostic measures) and goods related to treatment that are prepared within the context of medical assistance by patients in prophylactic enterprises and organizations, and services rendered by them

Supply of goods and services (according to the procedure established by the government of Armenia) financed by funds intended for the preparation of credit and grant programs of international financial organizations

Gratuitous supply of goods and services by public (including benevolent) and religious organizations

Supply of precious and semiprecious stones indicated in the list specified by the government of Armenia

Supply of goods and services within humanitarian assistance and charitable projects by foreign states, international intergovernmental organizations, international, foreign, and Armenian public organizations (including charities), religious and similar organizations and individual donors, as well as supply of goods and services directly related and essential to the implementation of such projects by Armenian VAT payers

Supply of property into the share capital of legal entities by individuals except for sole entrepreneurs

Supply of services to the organizer and operator of a free-economic zone and the supply of goods in the territory of a free-economic zone

#### **Examples of zero-rated transactions**

Export outside the customs border of Armenia

Supply of fuel for airplanes on international flights and supply of goods for consumption during the flights for the staff and passengers of the airplanes

Supply of goods for passengers of international routes in airports, in places specially allocated for that purpose beyond customs and passport control territories, provided that the goods have passed customs registration before being supplied in accordance with the procedure established by the customs legislation for the export of goods from Armenia

Supply of maintenance (including navigation, take-off and landing services), repair and re-equipment of the means of transport for international transportation, as well as supply of services for passengers, baggage, cargo and mail on international flights and supply of services to passengers during the flights

Supply of services (including those provided by agencies and intermediaries) directly related to the provision of services described in the preceding item

Supply of services outside Armenia

Supply and import of goods for the official use of diplomatic representations and consular institutions, as well as international intergovernmental organizations deemed equal thereto, and supply of services to them

Supply of transportation services of foreign loads in transit through Armenia

#### **E. Time of supply**

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

**Imported goods.** The time of supply for imported goods is the moment of importation of goods into Armenia in accordance with the procedures established by the government of Armenia.

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

## F. Recovery of VAT by taxable persons

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

- Amounts of VAT indicated in tax invoices issued by the suppliers of goods and services purchased or received during the reporting period in Armenia
- Amounts of VAT withheld (or subject to withholding) by customs bodies of Armenia for goods imported into Armenia

To deduct input VAT, the following conditions must be satisfied:

- The goods and services must be purchased or received in Armenia for production or other commercial purposes.
- The payments for the goods and services must be made to suppliers' bank accounts through a bank or post office (for cash purchases, deductions are available for purchases of up to AMD 300,000 per transaction and up to AMD 3 million per month).
- The VAT payer must submit information to the tax authorities about purchase and sale tax invoices issued during the reporting period that have a VAT taxable amount exceeding AMD 100,000, except for tax invoices issued and/or accepted electronically through the Internet.

The excess of input VAT over output VAT in the reporting period may be carried forward and offset against output VAT in subsequent reporting periods.

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

- The person carrying out entrepreneurial activities is not considered to be a VAT payer.
- VAT was paid for transactions that are exempt from VAT (see Section D), not subject to tax or not regulated by the Armenian law on VAT.
- VAT was paid for the goods and services purchased and/or used for nonproduction or noncommercial purposes.
- Input VAT on purchased goods or services exceeds the output VAT on the sale of the same goods or services, except for cases in which the resale price is fixed by the government of Armenia.
- VAT was paid on the purchase or import of cars, except for the cars acquired for the purpose of resale.
- The taxpayer failed to submit the required information to the tax authorities on tax invoices issued by suppliers within the reporting period.

**Partial deduction.** If a taxable person makes both taxable and nontaxable (exempt or outside-the-scope-of VAT) transactions, it may not deduct input VAT in full from output VAT. It may deduct only the amount of input VAT related to the goods and services used in taxable transactions. For this purpose, VAT payers must



maintain separate accounts for taxable and nontaxable transactions, as well as for the services and goods purchased for conducting such transactions.

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

**Capital goods.** Effective from 1 January 2012, a capital goods adjustment applies for input VAT related to the purchase, construction or importation of fixed assets.

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

An adjustment may also be made if no input tax is deductible in the reporting period in which the acquisition is made because, at the time of acquisition, the fixed asset is directly attributable to making non-VATable supplies and if the asset is subsequently used for making supplies that are subject to VAT. If the taxpayer makes both taxable and exempt supplies, the input tax recovery is based on 20% of the amount of amortization calculated for the fixed asset under the Profit Tax Law and on the ratio of taxable to nontaxable supplies made.

**Refunds.** Under the Armenian law on VAT, refunds are available only for zero-rated transactions (except for the export of ferrous and nonferrous scrap). In all other cases, excess input VAT can be deducted only from the taxpayer's future VAT liabilities.

## **G. Recovery of VAT by nonestablished businesses**

Nonestablished businesses cannot recover VAT in Armenia, because only VAT payers in Armenia may recover input tax.

## **H. Invoicing**

**VAT invoices and credit notes.** VAT payers supplying goods and services to legal entities and individual entrepreneurs must issue tax invoices if these supplies are subject to the standard rate of VAT. VAT invoices are not issued for supplies that are subject to the zero rate of VAT. A tax invoice must be issued on delivery of goods to, or acceptance of services by, the customer. A VAT invoice is necessary to support a claim for input tax deduction. Tax invoices can be issued electronically or in hard copies.

The VAT law in Armenia does not contain any rules with respect to the issuance of credit notes.

**Invoices issued in a foreign currency.** In general, tax invoices are issued by VAT payers in Armenian currency (AMD) only. However, commercial invoices can be issued in foreign currencies for transactions carried out with nonestablished businesses. In such cases, the daily foreign currency exchange rates published by the Central Bank of Armenia are taken into consideration.

## I. VAT returns and payment

**VAT returns and payment.** VAT payers that had VAT taxable turnover during the preceding calendar year in excess of AMD 100 million must file monthly VAT returns with the local tax authorities. All other VAT payers must file their VAT returns quarterly. VAT due is payable to the state budget by the 20th day of the month following the reporting period.

For goods imported into Armenia, VAT must be paid within 10 days after importation in accordance with the procedure established by the government of Armenia. VAT payment may be deferred on the importation of certain goods.

If the previously declared customs regime (under which VAT is not levied on the goods passing the customs border) is replaced by the import for free circulation regime, the taxpayers must pay the amount of applicable VAT within 10 days after the redeclaration of goods or after the day when it became known.

**Penalties.** The penalty for concealment or reduction of VAT taxable turnover equals 50% of unpaid tax.

The penalty of 50% of unpaid tax also applies to the concealment or reduction of VAT payable resulting from a deduction of input VAT that exceeds the amount allowed under the law.

The penalty for the violation of instructions established by the government of Armenia for the issuance of tax invoices equals double the amount of the remuneration with respect to the respective tax invoice (including the amount of VAT) but not less than AMD 5 million.

The penalty for filing a VAT return more than two months late is 5% of the unpaid tax for each 15-day period, up to a maximum penalty of the total tax amount.

In addition, interest is charged on late tax payments at a rate of 0.15% of the tax due for each day of delay (up to 365 days).

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## A. At a glance

Name of the tax	Revenue tax (RT)
Local name	Belasting op bedrijfsomzetten
Date introduced	1 January 2007
European Union (EU) member state	No
RT rates	
Standard	1.5%
Other	Exempt
RT number format	XXXXXXX (7 digits)
RT return periods	Monthly
Thresholds	None
Recovery of RT by nonestablished businesses	No

## B. Scope of the tax

Persons subject to RT are entrepreneurs that in the course of their business supply goods or render services in Aruba. The tax base equals the gross revenue (in cash or in kind) realized from the supply of goods or the rendering of services by entrepreneurs in the course of their business in Aruba.

## C. Who is liable

In principle, for RT purposes, an entrepreneur is an individual or business entity that delivers goods or performs services (engages in taxable activities) in Aruba. The entrepreneur that realizes the revenue is subject to RT.

A legal entity that does not participate in Aruba economic activities and is in possession of a foreign-exchange license is not regarded as an entrepreneur for RT purposes.

**Nonestablished business.** A “nonestablished business” is a business that does not have a fixed place of business in Aruba. The Aruba RT law does not provide an explicit exception for non-established businesses. Consequently, foreign entrepreneurs are considered to be entrepreneurs for RT purposes and are subject to RT when performing taxable activities in Aruba.

**Free-zones.** Free-zone companies are not subject to RT with respect to the rendering of services or the supply of goods to nonresidents.

**Group tax relief.** If a parent company owns 100% of the shares in a subsidiary established in Aruba, on request a fiscal unity for RT purposes is recognized and RT is levied on the parent company as if one entrepreneur exists. Turnover generated by intercompany transactions is exempt from RT.

**Late-registration penalties.** In general, an Aruba entrepreneur that begins taxable activities must register with the tax authorities. No specific deadline for registration is imposed. In addition, no specific penalty is imposed for late registration. However, if the late registration results in the late payment of RT or the late submission of RT returns, penalties may be imposed.

## D. RT rates

The term “taxable supply” refers to a supply of goods or rendering of services that is subject to RT. The term “exempt supply” refers to a supply of goods or rendering of services that is not subject to RT. The term “revenue” refers to all remunerations (in cash or in kind) received by an entrepreneur for the supply of goods or the rendering of services in the course of its business, excluding interest.

The standard rate of 1.5% applies to revenue realized from performing taxable activities in Aruba, unless a specific measure provides for an exemption.

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

### Examples of exempt supplies of goods and services

Sale of real estate (to the extent that transfer tax is due)

Prescription medicines, including certain medical aids

Renting out of apartments or hotel rooms (to the extent that room tax is due)

Providing opportunities to gamble (to the extent that gaming tax is due)

International transportation of goods and persons by ships or airplanes

Renting out of real estate that is used as the renter’s own dwelling

Investment income, such as interest and dividends

Insurance and the services performed by intermediaries of insurance companies

Services rendered by companies established in the free zone to customers outside Aruba

**Exports.** Revenue realized from the supply of exported goods is exempt from RT. However, to qualify for this exemption, the exports must be supported by evidence that confirms that the goods have left Aruba.

The Minister of Finance may issue additional regulations for the implementation of the export exemption mentioned above.

## E. Cash or invoice (accrual) basis for RT

RT is levied on a cash basis. However, on request, an entrepreneur may opt for an invoice (accrual) basis for RT. The tax authorities need to approve this request.

## F. Recovery of RT

Neither established nor nonestablished businesses may recover RT in Aruba.

## G. Invoicing

An entrepreneur must provide an invoice for all taxable supplies made, including exports.

Entrepreneurs subject to RT must retain copies of invoices for 10 years.

An RT credit note must be issued when the quantity or consideration shown on an invoice is altered. In general, credit notes must contain the same information as the original RT invoice.

## H. RT return and payment

**RT returns.** RT returns are generally submitted on a monthly basis. The RT return must be filed within 15 days after the end of the month, and the RT due must be paid within the same time period. The filing of the return and payment of the RT amount can be made separately.

**Penalties.** Aruba's penalty system is strict. The penalties can be divided into the following two categories:

- Omissions
- Gross negligence or intent

The tax authorities can impose penalties for not filing the RT return on time, for not paying the amount due on time, or for not paying or partially paying the amount due. These penalties can cumulate. The following are the maximum penalties, which vary depending on the number of omissions):

- Not filing return on time: AWG 250
- Not paying on time: AWG 10,000
- Not paying or partially paying: AWG 10,000

If the late payment is caused by gross negligence or intent, fines ranging from 25% to 100% of the RT payable may be imposed.

Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct.

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### A. At a glance

Name of the tax	Goods and services tax (GST)
Date introduced	1 July 2000
European Union (EU) member state	No
Administered by	Australian Taxation Office ( <a href="http://www.ato.gov.au">http://www.ato.gov.au</a> )
GST rates	
Standard	10%
Other	GST-free (zero-rated) and input taxed (exempt without credit)
GST number format	ABN 12345678901
GST return periods	Monthly (turnover in excess of A\$20 million; optional for all other registered persons) Quarterly (turnover below A\$20 million) Annual with quarterly payments (turnover below A\$2 million) Annual (turnover below A\$75,000)
Thresholds	
Registration	A\$75,000 (A\$150,000 for nonprofit bodies)
Recovery of GST by nonestablished businesses	No

## B. Scope of the tax

GST applies to the following transactions:

- Taxable supplies of goods and services, which are supplies connected with Australia and made for consideration in the course of a business enterprise by an entity that is registered or that is required to be registered for GST
- Reverse-charge supplies made to a registered entity in Australia if the supply is not connected with Australia and if the recipient of the supply does not make the acquisition solely for a creditable purpose
- Taxable importations of goods into Australia, regardless of the status of the importer

## C. Who is liable

The GST registration threshold is A\$75,000 (A\$150,000 for nonprofit bodies). The threshold applies, retrospectively and prospectively, based on either of the following:

- Current GST turnover, which is the value of all supplies made or likely to be made in the current month plus the preceding 11 months
- Projected GST turnover, which is the value of all supplies made or likely to be made in the current month plus the next 11 months

To calculate turnover for the above purposes, turnover from input-taxed (exempt) supplies, supplies that are not connected with Australia and certain other types of supplies are excluded.

**Voluntary registration.** An entity that has turnover below the registration threshold may apply to register for GST voluntarily if the entity is carrying on an enterprise.

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

**Group registration.** Subject to certain requirements, two or more entities that are closely related may form a GST group. The effect of GST grouping is to treat the group members as a single entity for certain purposes. In general, all GST liabilities and input tax credit entitlements for group members are attributed to a representative member of the group, and the group submits a single GST return (incorporated as part of the Business Activity Statement; see Section I). The representative member of the group must be resident in Australia. However, nonresidents may be included in a GST group as members. Transactions between group members are not considered taxable for GST purposes and consequently are effectively ignored.

Grouping is permitted for companies, partnerships and trusts. For companies to be included in a GST group, they must be connected by a 90% (or greater) share ownership relationship in terms of voting power, right to receive dividends and right to

receive capital distributions. However, all eligible companies are not required to be included in a GST group. The rules for the grouping of trusts and partnerships with companies are complex.

**Branch registration.** An independent branch of a company may be registered separately as a GST branch, with its own GST number. Certain requirements must be met relating to the nature of the activities and accounting systems of proposed GST branches. In addition, a branch of a registered entity may not be registered as a GST branch if the entity is a member of a GST group.

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

As an alternative to registration, some nonresidents may agree with the recipient of the supply for the recipient to account for the GST liability under the voluntary reverse-charge procedure.

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

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

The voluntary reverse charge does not apply if either of the following circumstances exists:

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

**Compulsory reverse charge.** A compulsory reverse charge applies in the following circumstances:

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

The compulsory reverse charge applies primarily to businesses that make input-taxed (exempt) supplies (for example, financial institutions) and to acquisitions made for a partly private or domestic purpose. The reverse charge does not apply to private consumers who are not registered or required to be registered for GST.

**Late registration penalties.** Penalties and interest may be imposed for late registration or for failure to register and for late submission



of a GST return, as part of the Business Activity Statement (see Section I), or late payment of GST.

#### **D. GST rates**

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

“Input-taxed supplies” are supplies not liable for GST, but which do not give rise to a right to claim input tax credits for GST included in acquisitions related to the supply (see Section F). “GST-free supplies” are supplies not liable for GST that do give rise to a right to claim input tax credits for GST included in acquisitions related to the supply.

The following tables list examples of input-taxed supplies and GST-free supplies of goods and services, subject to satisfying certain conditions (the lists are not exhaustive).

##### **Examples of input-taxed supplies of goods and services**

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

##### **Examples of GST-free supplies of goods and services**

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

#### **E. Time of supply**

Australia does not have time of supply rules. Instead, it has attribution rules with respect to the timing of when GST is payable or an input tax credit is claimable. The time when GST is payable on a supply depends on whether the taxable person accounts for GST on a cash basis or on an accrual basis.

**Cash accounting.** Entities may choose to account on a cash basis only under limited circumstances, which involve, among other conditions, consideration as to whether an entity satisfies certain income tax definitions.

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

**Accrual basis.** For businesses that account for GST on an accrual basis, GST is payable with respect to a taxable supply for the tax period in which the invoice is issued or when any of the consideration is received for the supply, whichever is earlier.

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

Security deposits are not considered to constitute payment of the consideration for a supply until the deposit is applied as partial payment toward the consideration for the supply. GST is payable on a security deposit that is forfeited.

**Continuous supplies.** If a supply is made continuously over a period of time for consideration that is either paid progressively or periodically, the supply is treated as if each component of the progressive or periodic supply is a separate supply.

**Imported goods.** GST is payable for imported goods at the time of importation. For an importer registered under the GST-deferral scheme, GST is payable on the due date for the importer's next Business Activity Statement (see Section I).

## F. Recovery of GST by registered entities

A registered entity may claim input tax credits for the GST included in the consideration for goods and services acquired within Australia, GST paid on importations of goods and GST paid under reverse-charge arrangements to the extent that the acquisition is a creditable acquisition. Input tax credits are generally recovered by being offset against GST payable on taxable supplies.

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

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

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

The following tables provide examples of items of expenditure for which input tax credits are not available (noncreditable acquisitions) and examples of items for which input tax credits are

available if the expenditure is related to the enterprise of an entity (creditable acquisitions). (These lists are not exhaustive.)

#### **Examples of noncreditable acquisitions**

Acquisitions used for nonbusiness purposes

Entertainment acquisitions that are ineligible for income tax deductions

Acquisitions related to input-taxed supplies (however, acquisitions related to making financial supplies that either do not exceed the financial acquisitions threshold, or relate to borrowings not used to make input-taxed supplies, remain creditable)

#### **Examples of creditable acquisitions**

Advertising

Attendance at conferences and seminars

Purchase, lease and hire of a car, van or truck

Maintenance and fuel for a car, van or truck

Parking

Mobile phones (GST may be payable on a recharge of costs to employees)

**Partly creditable acquisitions (partial exemption).** A creditable acquisition is an acquisition of goods or services used by a registered entity in its business enterprise. However, input tax credits are not available for GST included in acquisitions that are used for making input-taxed (exempt) supplies, subject to whether an entity exceeds the Financial Acquisitions Threshold (see *Noncreditable acquisitions*).

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

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

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

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

- A prorata calculation, based on the cost of acquisitions used to make taxable supplies compared with the total cost of all acquisitions.
- A prorata calculation, based on the total value of taxable supplies made compared with the total value of all supplies made.

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

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

### **G. Recovery of GST by nonestablished businesses**

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

### **H. Invoicing**

**Tax invoices and adjustment notes.** A registered person must generally provide a tax invoice for all taxable supplies made if requested to do so by the recipient of a supply. A tax invoice is not required for supplies with a GST-inclusive amount of A\$82.50 or less.

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

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

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

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

### **I. GST returns and payment**

**Business Activity Statement.** GST liabilities are reported using a Business Activity Statement (BAS). Registered persons whose annual turnover equals or exceeds A\$20 million must complete a BAS each month, which must be filed electronically, and must pay any net GST liability. Monthly returns and payments are due

by the 21st day of the month following the end of the return period.

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

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

Persons whose turnover does not exceed A\$75,000 and who voluntarily opt to register for GST, may apply to file annual BASs and pay GST annually.

GST liabilities must be paid in Australian dollars.

**Penalties.** A late lodgment penalty may be imposed for the late filing of a BAS. The penalty applies for each 28-day period, or part thereof, that the BAS remains overdue, up to a maximum of five periods. The amount of the penalty is one penalty unit for each period (a penalty unit is currently A\$110). General interest charges may be imposed on late payments of GST. The rate changes quarterly. It is around the range of 12% to 14% per year, compounded daily.

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## Austria

(Country code 43)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Umsatzsteuer
Date introduced	1 January 1973
European Union (EU) member state	Yes
Administered by	The Federal Ministry of Finance ( <a href="http://www.bmf.gv.at">http://www.bmf.gv.at</a> )
VAT rates	
Standard	19%/20%
Reduced	10%/12%
Other	Exempt and exempt with credit

VAT identification number format	ATU 1 2 3 4 5 6 7 8
Tax number format	1 2 3 / 4 5 6 7
VAT return periods	Monthly (turnover in preceding year in excess of €100,000) Quarterly (turnover in preceding year below €100,000) Annually (all businesses)
Thresholds	
Registration	€30,000 (entities established in Austria) Nil (entities established outside Austria)
Distance selling Intra-Community acquisitions	€35,000 €11,000 (acquirers that do not deduct input tax)
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Austria by a taxable person
- The intra-Community acquisition of goods from another European Union (EU) member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in Austria (that is, services for which the VAT liability shifts to the recipient of the service)
- Self supplies of goods and services used for nonbusiness purposes and supplies of goods without consideration
- The importation of goods from outside the EU, regardless of the status of the importer

## C. Who is liable

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

Special rules apply to VAT registration for foreign (or nonestablished) taxable persons.

**Exemption from registration.** If a business that is established in Austria has annual turnover of €30,000 or less and does not have to pay VAT for the calendar year, it does not need to register for a tax number or file a VAT return.

**Exempt supplies by small businesses.** If an Austrian taxable person's annual turnover is not more than €30,000, its supplies are exempt from VAT (with no input tax credit; see Section F). However, a taxable person with an annual turnover of less than €30,000 may opt to charge VAT on its supplies and recover input tax on its purchases.

**Group registration.** In Austria, group registration may be granted to entities that are closely bound by financial, economic and organizational ties. A group consists of a controlling entity and

one or more entities that it controls. The controlling entity may be any taxable person, but the controlled entities must all be corporate bodies. The effects of VAT grouping are restricted to the parts of the business that are located in Austria.

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

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

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

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

**Nonestablished businesses.** A "nonestablished business" is a business that does not have a fixed establishment in Austria. No VAT registration threshold applies to taxable supplies made in Austria by a foreign or nonestablished business.

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

- Supplies of goods located in Austria at the time of supply
- Intra-Community acquisitions (see the chapter on the EU, page 208)
- Distance sales in excess of the threshold (€35,000)
- Supplies of services that are not covered by the reverse charge (for example, services supplied to private persons)

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

A nonestablished business is not required to register for VAT if all its supplies in Austria fall under the reverse-charge system (under which the customer accounts for the VAT due). If the reverse charge applies to supplies made by a nonestablished business, the business may recover VAT incurred in Austria under the EU 13th Directive or Directive 2008/9 refund provisions (see Section G), provided the business does not receive services in Austria that are subject to the reverse-charge system.

**Supplies and import VAT refunds for nonestablished businesses in chain transactions.** Under Prescript 2003/584 for chain transactions, the supply of goods to the last customer in Austria made by a nonestablished business is exempt from VAT.

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

- The supply to the last party in the chain is made by a nonestablished business that is not registered for VAT purposes in Austria
- The final customer has the right to deduct the full amount of input VAT
- No VAT is shown on the invoice

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

**Reverse charge.** The reverse-charge system applies to all supplies of services, except for road tolls and, effective from 1 January 2012, entrance fees for trade fairs, conventions and seminars in Austria that are organized by non-Austrian companies. It also applies to “work performance contracts” undertaken by a supplier without a seat or fixed establishment in Austria that intervenes in the supply. Under the reverse-charge mechanism, the recipient of a supply is liable for the VAT due.

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

If a foreign business exclusively makes supplies in Austria subject to the reverse charge and does not receive services subject to the reverse charge, it may not register for VAT. In these circumstances, Austrian input VAT may only be claimed through the EU 13th Directive or Directive 2008/9 VAT refund schemes (see Section G). The input VAT must be reclaimed within six (nine) months (that is, by 30 June [30 September]) after the end of the calendar year in which the input VAT is incurred.

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

Effective from 1 January 2012, reverse-charge accounting does not apply to charges for admission to events such as trade fairs, conventions and seminars held in Austria but organized by non-Austrian companies. Consequently, the VAT liability for these services remains with the supplier.



Effective from 1 January 2012, the supply of mobile radio units (such as mobile phones) and integrated circuits in Austria for a consideration of at least €5,000 is subject to reverse-charge accounting, even if the supplier is an Austrian business. The definitions of “mobile radio units” and “integrated circuits” are based on the combined nomenclature of the customs tariff.

**Domestic reverse charge.** A domestic reverse-charge mechanism applies in the following cases:

- If construction or building work is performed by a subcontractor to a general contractor, the liability to pay the VAT shifts from the supplier (subcontractor) to the customer (general contractor). To determine whether to apply the reverse-charge mechanism, the customer must provide the supplier with a written notification that the VAT liability in such case will shift to the recipient of the construction service. If the construction work is performed for a building contractor or another business that typically performs construction or building works the VAT liability shifts automatically to the customer, without any notification.
- Effective from 1 January 2011, the domestic reverse charge for construction or building works also applies to charges for building cleaning services if the services are performed for a building contractor or other business that typically performs construction or building works or if the building cleaning services are performed by a subcontractor for a general contractor.
- The reverse charge applies to the supply of goods provided as security by one taxable person to another in execution of that security, the supply of goods following the cession of the reservation of ownership to an assignee and the exercise of this right by the assignee and the supply of immovable property in the course of the judicial sale.
- The reverse charge applies to supplies of used material, used material that cannot be reused in the same state, scrap, industrial and nonindustrial waste, recyclable waste, part processed waste and certain goods and services, as listed in Annex VI of Directive 2006/112/EC.
- The reverse charge applies to supplies of greenhouse-gas-emission certificates.
- Effective from 1 January 2012, the reverse charge applies to the supply of mobile radio units (for example, mobile phones) and integrated circuits, provided that the net consideration is at least €5,000. For purposes of this rule, the amount per invoice is decisive. The liability to pay VAT also shifts to the recipient if the supplier is an Austrian business. To avoid problems in defining relevant products, the definition of “mobile radio units” and “integrated circuits” is in accordance with the combined nomenclature of the customs tariff.

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

A business established in another EU member state is not required to appoint a tax representative in order to register for VAT.

For non-EU businesses, the Austrian tax authorities require a postal address in Austria to which correspondence may be sent.

For EU businesses, it is not mandatory but it is recommended that an Austrian postal address be provided.

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are within the scope of VAT, but which are not liable to tax (see Section F). Exempt supplies do not give rise to a right of input tax deduction on related expenditure. Some supplies are classified as “exempt with credit.” This means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services to non-EU countries as well as intra-Community supplies of goods and related services to taxable persons established in the EU (see the chapter on the EU, page 208).

In Austria, the VAT rate depends on where the supply is made. In the regions of Jungholz and Mittelberg, the standard rate is 19%. In the rest of Austria, the standard rate is 20%. Reduced rates of 10% and 12% also apply. The standard VAT rate applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption. The 12% reduced rate applies only to certain wine sales made by the producer.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of 10% (the lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

Supplies by businesses with annual turnover of less than €30,000  
 Certain postal services provided by universal postal services suppliers  
 Most finance services  
 Insurance  
 Sales and rental of immovable property for commercial uses  
 Medical services

##### **Examples of goods and services taxable at 10%**

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

#### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” In general, the “time of supply” is the end of the calendar month in which goods are supplied or a service is performed. The time of supply may be postponed by one month by issuing the invoice for the supply after the end of the month in which the supply took place. Under Article 44 of EU Directive

2006/112 (general business-to-business rule), this postponement does not apply to services subject to reverse charge.

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

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

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

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

## F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied within Austria, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services (see the chapter on the EU, page 208).

A valid VAT invoice or customs document is required for an input VAT deduction.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by entrepreneurs). In Austria, input VAT may be claimed in full for business assets that are used primarily for private purposes (minimum 10% business use), but the taxable person must account for output tax with respect to the private use of the assets. In addition, input tax may not be recovered for some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

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

### Examples of items for which input tax is deductible

Accommodation  
 Mobile phone costs

## Books

Small business gifts, if allowed for direct tax purposes (but gifts are subject to output VAT if they exceed a value of €40)

Purchase, lease, hire, maintenance and fuel for vans and trucks

Entertainment of business partners (restaurant expenses), if predominantly for marketing purposes

Taxis

Business travel

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

The general partial exemption calculation is performed in the following two stages:

- The first stage identifies the input VAT that may be directly allocated to exempt and to taxable supplies. Supplies that are exempt with credit are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies without credit is not deductible, while input tax directly allocated to taxable supplies is deductible.
- The second stage prorates the remaining input tax that relates to both taxable and exempt supplies without credit and cannot be directly allocated, in order to allocate a portion to taxable supplies. For example, this treatment applies to the input tax related to general business overhead. In Austria, the pro rata calculation is based on the value of taxable supplies compared to the total value of supplies made. The pro rata recovery percentage is normally taken to two decimal places.

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

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

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

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

The adjustment is applied each year following the acquisition, to a fraction of the total input tax (1/10 for land and buildings and 1/5 for other movable capital assets). The adjustment may result

in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

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

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

### **G. Recovery of VAT by nonestablished businesses**

Austria refunds VAT incurred by businesses that are neither established in Austria nor registered for VAT there. Nonestablished businesses may claim Austrian VAT refunds to the same extent as VAT-registered businesses.

For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. Austria does not exclude any non-EU country from the refund scheme.

The VAT refund procedure under the EU 13th VAT Directive and under EU Directive 2008/9 may be used only if the business did not perform any taxable supplies in Austria during the refund period (excluding supplies covered by the reverse charge; see Section C).

**Refund application.** The deadline for non-EU claimants is 30 June of the year following the year in which the input VAT was incurred. The deadline for EU claimants is 30 September of the year following the year in which the input VAT was incurred. These deadlines may not be waived or extended.

*Non-EU claimants.* Claims must be submitted in German and must be accompanied by the appropriate documentation.

A non-EU company claimant must submit the following documents:

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

The appointment of a fiscal representative in Austria for a VAT refund claim is not required. However, claimants from non-EU countries must provide an address in Austria to which the Austrian tax authorities may send correspondence.

The minimum claim period is three months. The maximum period is one year. The minimum claim for a period of less than a year is €400. For an annual claim, the minimum amount is €50.

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

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

*EU claimants.* Effective from 1 January 2010, EU claimants must file the refund application electronically in the EU member state in which they are seated. The deadline for annual applications is 30 September of the following year.

EU claimants are not required to enclose any invoices or a certificate of the taxable status with the application. However, the Austrian tax authority may demand additional information, such as original ingoing invoices, in the course of the refund procedure.

The minimum claim period (three months) and the maximum claim period (one year) remain the same. However, the minimum claim amounts have changed. The minimum claim amount for a claim for a period of less than one year is €400, while the minimum claim amount for an annual claim is €50.

For the general VAT refund rules applicable to nonestablished businesses, see the chapter on the EU, page 208.

## H. Invoicing

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

A VAT invoice is necessary for input VAT deduction or a refund under the EU 13th Directive or Directive 2008/9 refund schemes (see the chapter on the EU, page 208).

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

**Proof of exports and intra-Community supplies.** Austrian VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence proving that the goods have left Austria. Acceptable proof includes the following documentation:

- For an export, the export document, officially validated by customs, showing the supplier as the exporter, freight documents, or the export advice according to Article 796e of the Commission Regulation 1875/2006 is required.
- For an intra-Community supply, a range of commercial documentation is needed, including an invoice indicating the

supplier's and customer's EU VAT identification numbers and a statement that the transaction is an intra-Community supply that is exempt from VAT and freight documents (for example, proof of receipt of the goods by the customer). If the customer picks up the goods at the place of the supplier with the customer's own means of transport, additional documentation is required (for example, proof of identity of the person collecting the goods, power of attorney signed by the customer that this person is entitled to collect the goods and the original signed confirmation of the customer that the goods will be transported to another EU member state).

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

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, the foreign currency used must be clearly indicated. All VAT and customs duty amounts must be converted to euros (€), either by using the current exchange rate (proof from the bank required) or the exchange rates issued monthly by the Austrian Ministry of Finance.

## I. VAT returns and payment

**VAT returns.** Austrian VAT returns are submitted monthly if taxable turnover exceeded €100,000 in the preceding year. If a business begins operations, it must submit monthly returns if its turnover will exceed €100,000 in the first year. If turnover is less than €100,000, VAT returns may be submitted quarterly. In addition, all taxable persons must submit an annual VAT return.

Monthly VAT returns must be submitted and full payment of the VAT due must be made by the 15th day of the second month following the return period. If this day is a Saturday, Sunday or public holiday, the due date shifts automatically to the next working day. If the taxable turnover in the preceding calendar year was less than €30,000 and if the payment is made on time, the VAT return form itself does not need to be submitted, unless the VAT authorities demand it. However, the monthly VAT return form must be submitted if a company that is in a repayment position wants to claim the repayment.

Quarterly VAT returns and full payment of the VAT due must be submitted by the 15th day (the next working day if this day is a Saturday, Sunday or public holiday) of the second month following the end of the VAT return period.

VAT returns and EU Sales Lists (see Section J) must be filed electronically, if the taxable person has the necessary technical means available to do so.

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

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

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

## J. EU declarations

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

The threshold for INTRASTAT Arrivals is €500,000, effective from 1 January 2010. The threshold for INTRASTAT Dispatches is also €500,000, effective from 1 January 2010.

INTRASTAT returns may be filed on paper or electronically. The returns must be completed in euros. The INTRASTAT return period is monthly after the threshold has been exceeded (that is, it is also necessary to file nil returns). The submission deadline is the 10th business day of the month following the return period.

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

**EU Sales Lists.** Under Article 44 of EU Directive 2006/112 (general business-to-business rule), if an Austrian taxable person makes intra-Community supplies of goods or performs intra-Community services for which the place of supply is located in another EU member state, it must submit an EU Sales List (ESL) to the Austrian VAT authorities. An ESL is not required for any period in which intra-Community supplies are not made.

For businesses submitting VAT returns quarterly, ESLs are submitted monthly or quarterly. The due date is the last day of the month following the end of the ESL period.

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

Incorrect submissions of ESLs may be considered an offense against the law and may lead to a penalty of up to €5,000.

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## Azerbaijan

(Country code 994)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Əlavə Dəyər Vergisi (ƏDV)
Date introduced	1 January 1992
European Union (EU) member state	No
Rates	
Standard	18%
Others	0% and exempt
Number format	Tax identification number (TIN) with 10 digits
Return period	Monthly
Thresholds	
Registration	
Legal persons	Taxable turnover exceeding AZN 150,000 for a period of 12 consecutive months
Individuals	Taxable turnover exceeding AZN 90,000 for a period of 12 consecutive months
Recovery of VAT by nonestablished businesses	No

### B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods, works and services performed in Azerbaijan
- The importation of goods

### C. Who is liable

**Taxable person.** Legal persons and individuals engaged in an entrepreneurial activity that have taxable turnover during a period of 12 consecutive months in amounts exceeding AZN 150,000 and AZN 90,000, respectively, must register with the tax authorities as VAT payers within 10 days following the end of the 12-month period.

Any person registered or to be registered as a VAT payer is considered a VAT payer. Consequently, a taxpayer is any individual entrepreneur or legal entity that makes taxable supplies of goods (works or services) or that conveys goods across the customs border of Azerbaijan in an amount exceeding the above-mentioned thresholds.

**Group registration.** Any joint economic activity conducted without the formation of a separate legal entity is deemed an independent

person for VAT purposes. As a result, the Azerbaijan tax law does not provide for group registration.

**Nonestablished businesses.** The provision of services in Azerbaijan by a foreign legal entity that does not have a permanent establishment in Azerbaijan (a nonestablished business) and that is not registered for VAT in Azerbaijan to a person registered or to be registered for VAT purposes in Azerbaijan (tax agent) is subject to VAT based on a reverse-charge mechanism. In such a case, the tax agent must calculate and pay VAT from the amount to be paid to the nonestablished business.

**Late-registration penalties.** If a taxpayer subject to VAT registration does not register for VAT purposes and carries out taxable activities, the taxpayer is subject to a financial sanction equaling 50% of the VAT amount payable to the state budget for the entire period during which the taxpayer carried out activities without VAT registration.

#### D. VAT rates

The standard rate of VAT is 18%. Certain supplies are zero-rated or exempt from VAT.

The following tables list examples of goods and services that are zero-rated or exempt from VAT (these lists are not exhaustive).

##### Examples of zero-rated supplies

Goods and services intended for the official use of the diplomatic and consular representative offices of international agencies, or for the personal use of the diplomatic, administrative and technical personnel of such representative offices

Exportation of consulting, legal, accounting, engineering, advertisement and other services

Importation of goods, supply of goods, performance of works and provision of services to recipients under grants, with the proceeds of uncompensated financial aid (grants) received from abroad

International or transit transportation (transportation of goods through Azerbaijan between two frontier posts of the country) of cargo or passengers

##### Examples of exempt supplies

Provision of financial services

Contribution of property to an enterprise's charter fund (capital) in the form of participation share, except for imported property (if the contribution of property in the form of participation share is not directly connected to the acquisition of other property in exchange)

Sale or purchase of all types of mass media products and the publishing of mass media products (except for advertising activities)

Transportation of passengers by subway

Production of textbooks for schools, literature for children and state publications funded by the state budget

#### E. Place of supply

**Goods.** The transfer of goods is deemed to occur at the place where they are made available. If the conditions for the supply

involve lifting and transporting the goods, the transfer is deemed to occur where the lifting or transportation of the goods begins. However, if the supplier is to install the goods, the transfer is considered to occur at the place where the goods are installed.

**Works and services.** The following are the rules for determining the place where works are performed or services are rendered:

- The place where immovable property is located if the works (services) are directly connected with that property. These works (services) include construction, construction and assembly, repair, reconstruction works, agency and expert services with respect to real property, as well as other similar works (services).
- The place where works (services) are actually rendered if they are connected with movable property.
- The place where services are actually rendered if they are rendered in the areas of culture, arts, physical fitness or sports, or in similar areas.
- The place where the transportation occurs if the works (services) are connected with such transportation.
- The place where the purchaser of works or services is located or registered, established, or, if the services are directly associated with the permanent establishment of the purchaser, where the permanent establishment is located.

The above rules apply to the following services:

- Transfer or assignment of patents, licenses, trademarks, copyrights and other similar rights
- Rendering of consulting, legal, accounting, engineering, advertisement, data processing and other similar services
- Services involving the providing of personnel
- Rental of movable property (except for vehicles belonging to transportation enterprises)
- Services rendered by an agent engaging a person to provide taxable services on behalf of a principal
- Provision of telecommunication services (receipt, distribution, transmission of signals, documents, pictures, sounds or any type of information through telegraph, radio, optical or other electromagnetic systems, including granting or acquisition of such transmission, receipt or distribution rights)
- Radio and television broadcasting, and provision of postal services
- Provision of services through computers, the Internet and other electronic networks, email and other similar applications, or granting rights for the use of such networks or services

The place of works or services that cannot be determined based on the above tests is deemed to be the place where the person performing a work or rendering a service conducts activity.

## **F. Time of supply**

**Goods and services.** In general, the time of a taxable transaction is the date on which an electronic VAT invoice is issued for the transaction. If a VAT invoice is not issued within five days following the date on which it was due, the taxable transaction is considered to occur at the time of provision of the goods, works or services. If the supply of goods involves their transportation, the taxable transaction is considered to occur when the transportation begins.

**Continuous supply of services.** If services are rendered on a regular or continuous basis, the time of rendering services is when an electronic VAT invoice is issued for any part of the operation. If payment has been made, the time of rendering services is when payment is made for any part of the operation.

**Additional time-of-supply rules.** For advance payments, the taxable transaction is considered to occur at the time of payment. If two or more payments are made with respect to a taxable activity, each payment is deemed to be a separate transaction, up to the limits of the payment amounts.

**Imported goods and services.** For taxable importations, the time of a taxable operation is when the use or consumption of the imported goods or services begins.

### **G. Recovery of VAT by taxable persons**

VAT must be paid through an electronic transfer (no payments in cash). VAT must be paid to a VAT deposit account directly from a deposit account or bank account of a payer. Electronic VAT invoices must be supplied. In addition, import documents issued by customs authorities that substantiate the amount of import VAT paid, regardless of the form of payment, serve as grounds for a VAT credit.

**Nonrecoverable input VAT.** In general, no credit of input VAT paid with respect to entertainment and food expenses (except for expenses for healthful and dietary meals, milk and other similar products and for food expenses for ship personnel in sea transport within norms set by the relevant executive authority) or for expenses connected with the accommodation of employees and other expenses of a social nature is allowed.

**Partial exemption.** If a taxpayer conducts both taxable operations and operations exempt from VAT, a VAT credit is granted for the VAT paid with respect to the taxable transactions.

**Refunds.** An excess of VAT credit amount over the output VAT amount charged during the accounting period may be carried forward for the following three months and applied against VAT due to the state budget during that period. Any remaining balance after three months is refunded within 45 days after the expiration of that period on the basis of the taxpayer's application for a refund.

### **H. Invoicing**

In general, persons registered as VAT payers and conducting taxable transactions must issue electronic VAT invoices to the persons to which they provide goods or services. Persons not registered for VAT purposes may not issue VAT invoices. A taxpayer must prepare and issue to a purchaser of goods or services an electronic VAT invoice within five days after the delivery of goods or provision of services.

### **I. VAT returns and payments**

**VAT returns.** Each taxpayer must file a VAT return on a monthly basis. The return must be filed by the 20th day of the month following the accounting month. The payment of VAT must be made by the same day.

VAT on imports must be calculated and collected by customs authorities at the time of importation.

### Penalties

*Late submission of return.* Late submission of a VAT return is subject to a financial sanction in an amount of AZN 40.

*Tax underpayment or evasion.* If the VAT amount indicated on a VAT return is understated or VAT payable to the state budget is evaded by failure to submit the VAT return, the taxpayer is subject to a fine equal to 50% of that understated or evaded tax (except for an additional tax amount calculated through a desk tax audit; a desk tax audit is conducted distantly by the tax authorities on the basis of documents provided by a taxpayer or third-party information, without visiting the premises of the taxpayer).

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## Barbados

(Country code 1)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 1997
European Union (EU) member state	No
Administered by	Customs and Excise Department Value-Added Tax Division 3rd Floor Weymouth Corporate Centre Roebuck Street St. Michael Barbados
VAT rates	
Standard	17.5%
Reduced	8.75%
Other	Zero-rated (0%) and exempt
VAT number format	2XXXXXXX-X (9 digits)
VAT return periods	Bimonthly and monthly
Thresholds	
Registration	BDS\$80,000

Recovery of VAT by  
nonestablished businesses      No

## **B. Scope of the tax**

VAT applies to the supply of goods and services by a taxable person (registrant) in Barbados and to the importation of goods.

## **C. Who is liable**

Barbados VAT law imposes a registration requirement on any person who makes taxable supplies in Barbados, other than a person whose annual turnover is less than BDS\$80,000 a year.

In general, any person that begins making taxable supplies in Barbados must apply to the VAT authorities for registration within 21 days after the date on which taxable supplies are first made.

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

**Reverse charge.** No reverse-charge mechanism applies in Barbados.

## **D. VAT rates**

The term “taxable supply” refers to a supply of goods and services that is liable to VAT, including a supply taxed at the zero rate. The term “exempt supply” refers to a supply of goods and services that is not liable to VAT and is listed in the Second Schedule of the VAT Act. Persons that make exempt supplies are not required to register for VAT and they are not permitted to recover any input tax incurred in making those exempt supplies (see Section F).

In Barbados, the following three rates of VAT apply:

- Standard rate of 17.5%
- Reduced rate of 8.75%
- Zero rate (0%) and exempt

The 17.5% standard rate applies to most supplies of goods or services. The 8.75% rate applies to the supply of accommodation in guest houses, hotels and inns or similar places, including a dwelling house normally let or rented for use as a vacation or holiday home. The First Schedule of the VAT Act lists the goods and services that are zero-rated, and the Third Schedule of the Act lists the goods that are zero-rated on importation. On 17 July 2007, the Customs and Excise Department published the conditions and procedures necessary for manufacturers, who export 40% or more of their total production, to qualify for the zero-rating of inputs (for example, machinery and equipment and raw materials) imported for use exclusively in manufacturing.

The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Financial services

Medical services

Residential property sales

Water and sewerage services

Public postal services

Transportation services

Betting and gaming

**Examples of goods and services taxable at 0%**

Exported goods

Certain staple foodstuffs

Prescribed drugs

Veterinary services

International cruises

Imported inputs for manufacturing

**E. Time of supply**

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

- The date of issuance of the invoice by the supplier
- The date on which payment is received for the supply
- The date on which the goods are made available to the recipient or the services are performed

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

**F. Recovery of VAT by taxable persons**

VAT paid by a registrant is recoverable as input tax if it relates to goods and services acquired solely for the purposes of making taxable supplies. Input tax is recovered by offsetting it against output tax (that is, tax charged on supplies made) in the VAT return for each VAT period. If input tax exceeds output tax in a period, the excess is due to the registrant as a refund.

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

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

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes. The following are examples of items of expenditure for which input tax is deductible if the expenditure is related to the making of taxable supplies (this list is not exhaustive):

- Business entertainment
- Travel expenses

**Partial recovery.** The Barbados VAT law states that if all the supplies made by a taxable person during a tax period are taxable supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are taxable supplies, a partial recovery calculation is required. This measure applies to persons making both taxable and exempt supplies. Input tax is recoverable on the following basis:

- If all of the input tax for the period is directly related to the making of taxable supplies, the VAT is recoverable in full.

- If none of the input tax for the period is directly related to the making of taxable supplies, no VAT is recoverable.

If part or all of the input tax for the period is related to the making of both taxable and exempt supplies, an apportionment calculation must be performed. The amount of recoverable input tax is calculated based on the ratio of the value of taxable supplies made during the period compared to the total value of supplies (taxable plus exempt) made during the period.

If a taxable person makes no taxable supplies during the tax period, the VAT authorities may limit the amount recoverable to the amount that they consider to be “fair and reasonable.” However, this provision is generally not invoked.

**Refunds.** A refund arises when the amount of input VAT recoverable in a month exceeds the amount of output VAT payable. The VAT Act now provides that registrants may offset unpaid VAT refunds owed for a previous period against output tax due for the current period. Under prior law, refunds were generally paid by check after the submission of the VAT return. If the refund claim was submitted within the specified time (21 days after the end of the tax period) and the refund amount remained unpaid after 6 months, the tax authorities were required to pay interest on the outstanding balance at a prescribed rate of 1%.

## G. Invoicing

**Sales invoices and credit and debit notes.** A taxable person must provide a tax invoice for all taxable supplies made to registrants. A tax invoice is necessary to support a claim for input tax recovery.

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

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

## H. VAT returns and payment

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

**Penalties.** VAT penalties generally relate to VAT accounting. The following are some of the penalties associated with breaches of the VAT law:

- A penalty of BDS\$100 for the late submission of a VAT return
- A late payment penalty of 10% of any output tax due
- Interest at the rate of 1% of any outstanding tax and penalty

In addition, several other penalties may apply, including the following:

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

Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct.



# Belarus

(Country code 375)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Nalog na dobavlennuyu stoimost (NDS)
Date introduced	19 December 1991
European Union (EU) member state	No
Administered by	Ministry of Taxes and Duties of the Republic of Belarus ( <a href="http://www.nalog.by">http://www.nalog.by</a> )
VAT rates	
Standard	20%
Reduced	10%
Other	0.5%, zero-rated and exempt
VAT number format	Tax identification number (TIN) with 9 digits
VAT return periods	Quarterly or monthly (at the choice of the taxpayer)
Thresholds	
Registration	None (no separate registration exists for VAT purposes; taxpayers register for all corporate taxes at the same time)
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- Sales of goods (works and services) and property rights in Belarus (including exchanges of goods and gratuitous assignments)
- Importation of goods into Belarus

### C. Who is liable

In general, a taxpayer is any individual entrepreneur or legal entity (including a foreign legal entity) that makes taxable supplies of goods (works and services) and property rights in Belarus in the course of its business activities or that imports goods across the customs border of Belarus.

**Tax registration.** Taxpayers are not required to register separately for VAT purposes and cannot elect to do so. Tax registration is carried out during the incorporation of the company (or representative office) and applies for all corporate taxes.

**Exemption from VAT payment obligations.** Private entrepreneurs and legal entities that are applying the simplified taxation system (if thresholds of revenue and number of employees are not exceeded) or carrying out activities subject to unified tax on imputed income are exempt from VAT payment obligations, except for payment of VAT at customs. The exemption applies only with respect to the income subject to unified tax on imputed income.

**Group registration.** Tax group registration is not allowed under Belarusian law. Legal entities that are closely connected must register for tax purposes separately.

**Foreign legal entities (nonestablished businesses).** A “nonestablished business” is a foreign company that does not have a permanent establishment in Belarus. Foreign legal entities that do not have a permanent establishment in Belarus are not subject to VAT when they sell goods or services in Belarus. In such cases, the Belarusian legal entities and individual entrepreneurs who purchase these goods or services must calculate and pay VAT. A foreign legal entity or nonestablished business may be required to register for tax purposes in Belarus if it meets any of the following conditions:

- It plans to conduct business that leads to income generation.
- It owns taxable property in Belarus.
- It organizes and conducts performing arts presentations in Belarus.

The tax registration procedure for nonestablished businesses is generally the same as the procedure for Belarusian legal entities. A foreign legal entity must apply to the state registration authority for registration and submit a standard application form for tax registration to the Belarusian tax authorities together with supporting information and documentation about the entity.

**Late-registration penalties.** Belarusian tax law provides for several types of fines in the following amounts for tax registration violations:

- Late tax registration: penalty of not more than five base units. The amount of the penalty varies according to the amount of a base unit, which can change within a year, depending on the duration of the delay in tax registration. Effective from 1 April 2012, the base unit equals BYR 100,000. Before that date, the base unit equaled BYR 35,000.
- Avoidance of tax registration: penalty of not more than 20 base units. The amount of the penalty depends on the duration of the delay in tax registration. For legal entities, the penalty equals 20% of the amount of income generated during the period of unregistered business activity, but not less than 70 base units.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods (works and services) and property rights that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods (works and services) and property rights not liable to tax.

In Belarus, the following are the VAT rates:

- Standard rate: 20%
- Reduced rate: 10%
- Zero rate: 0%
- Additional rate: 0.5%

VAT is levied at a general rate of 20% on taxable supplies, which include the majority of domestic sales of goods and services.

The reduced rate of 10% applies to the following:

- Sales of crops (except flowers and ornamental plants)
- Sales of store cattle (except fur farming)
- Sales of fish and bee farming products produced in Belarus
- Sales and/or imports into Belarus of food and goods for children as per the list established by the Belarusian President

The 0.5% rate applies to the importation of natural uncut diamonds or diamonds in any form or other precious stones into Belarus from the territory of the Customs Union (consisting of Belarus, Kazakhstan and the Russian Federation) for production purposes.

The following tables list examples of exempt supplies of goods and services and goods and services taxable at 0% (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Provision of financial, insurance, educational, cultural, housing or medical services

Provision of certain medical equipment, prosthetics and devices for disabled persons

### **Examples of goods and services taxable at 0%**

Exports of goods and some services related to exports

Exports of transport services

Exports of works connected with the production of goods from raw materials supplied by customers under tolling agreements

Repairs of aircraft and their engines and units of railway technics for foreign companies and individuals

## E. Place of supply

Goods are deemed to be sold in Belarus if either of the following circumstances exists:

- The goods are situated in Belarus and are not shipped or transported abroad.
- The goods are situated in Belarus at the time of the commencement of shipment or transportation.

Services (work) are deemed to be provided in Belarus if the activities of a private entrepreneur or organization that performs the work (renders the services) are carried out in Belarus.

Under specific rules, services (works) are deemed to be provided in Belarus in the following circumstances:

- The services (work) are directly connected with immovable property situated in Belarus.
- The services (work) are connected with movable property situated in Belarus.
- The services (work) are rendered in Belarus in the areas of culture, art, education, physical education, tourism, leisure or sport.
- The purchaser of the service (work) carries out activities in Belarus.

The last item above relates to the following types of services:

- The transfer and licensing of intangible property
- The provision of consulting, legal, accounting, advertising, marketing, engineering, and information processing services
- The provision of secondment services (if the staff works in Belarus)
- The rent of movable property (except for transportation vehicles)
- The provision of services related to the development of computer programs and databases (computer software and information products) as well as the adaptation and modification of these products
- Certain other types of services

The place of supply of subordinated services is the same as for the main service.

## **F. Time of supply**

“Time of supply” is the moment when VAT becomes due.

Under local law, the time of supply is called the “date of actual realization.” The date of actual realization of goods (works and services) and property rights is determined by the method of revenue recognition used by a taxpayer. If a taxpayer uses the accrual method of revenue recognition, the date of actual realization of goods (works and services) and property rights is the date of dispatch of goods (performance of works or rendering services) or transfer of property rights.

The date of dispatch of goods is the date of the following:

- Shipment of goods to the customer or to the company that carries out transportation (if the seller does not provide transportation of goods or does not bear the costs of the transportation)
- Beginning of goods transportation

The date of performance of work (rendering services) is the day on which the services are considered to be provided in accordance with executed documents (for example, act of acceptance).

The date of transfer of property rights is the date on which the right to receive payment under the contract arises.

If a taxpayer uses the cash method of revenue recognition, the date of actual realization of goods (works and services) or property rights is the date of the money transfer to the seller’s bank account for the dispatched goods. If payment was not received during 60 days after the moment of goods dispatch, VAT must nevertheless be accrued.

A taxpayer must confirm the method of revenue recognition in its accounting policy. The accounting policy is a document adopted by a company for each year that describes methods (that do not contradict local law) applied by a company to carry out accounting under Belarusian generally accepted accounting principles (GAAP). Accounting policy must comply with local law requirements, but it may differ from company to company in certain elements.

**Imported goods.** Imported goods are subject to import VAT in Belarus.

For goods imported from countries that are not members of the Customs Union, VAT is collected by the customs authorities. For goods imported from countries that are members of the Customs Union, VAT is collected by the tax authorities. VAT on imports is payable on the customs value of goods, including import duty and excise duty if applicable.

**VAT on purchases of goods (works and services) from foreign legal entities.** Belarusian legal entities and individual entrepreneurs that acquire goods (works and services) from foreign legal entities must calculate and pay VAT to the budget if the foreign legal entities do not have a permanent establishment in Belarus. Subsequently, Belarusian legal entities or individual entrepreneurs may deduct the amount of paid VAT.

## G. Recovery of VAT by taxpayers

A taxpayer may recover input VAT, which is VAT charged on goods (works and services) and property rights supplied for carrying out activities within the scope of VAT. A taxpayer generally recovers input VAT by deducting it from output VAT, which is VAT charged on supplies made.

The following amounts of input VAT may be deducted:

- VAT presented for payment by sellers (except foreign legal entities that do not have a permanent establishment in Belarus) to buyers with purchased goods
- VAT paid on imported goods
- VAT paid on goods (works and services) and property rights purchased from foreign legal entities that do not have a permanent establishment in Belarus

**Non deductible input tax.** Amounts of input VAT cannot be recovered in the following circumstances:

- They were deducted as expenses for corporate profits tax purposes.
- They were allocated to the value of goods (works and services) and property rights (including fixed and intangible assets).
- They were involved in certain other cases.

**Partial exemption.** If a taxpayer engages in both exempt and taxable activities, it may account for input VAT related to each activity separately. In this case, input VAT directly related to taxable activities is recoverable in accordance with the sequence of VAT deductions, and input VAT directly related to exempt activities is not recoverable and must be expensed for corporate profit tax purposes. If the taxpayer does not keep separate accounts of input VAT attributable to taxable and exempt activities, it must be

apportioned. The statutory method of apportionment is a pro rata calculation, based on the revenue from taxable activities compared with the total turnover of the business. Percentages are calculated separately for activities subject to each VAT rate and for exempt activities. The amount of input VAT related to each kind of activity is determined by multiplying the total amount of input VAT and the relevant percentage.

The amount of input VAT is deducted in the following sequence:

- The amount of input VAT related to sales of goods (works and services) and property rights, except fixed assets and intangible assets (subject to VAT at 20% rate). The amount of input VAT is deductible up to the amount of output VAT calculated on the sales of goods (works and services) and property rights.
- The amount of input VAT on fixed and intangible assets. The amount of input VAT that may be deducted may not exceed the amount of output VAT calculated on sales of goods (works and services), property rights and the amount of VAT deducted in accordance with the rules stated in the first item above.
- The amount of input VAT related to activities that are subject to VAT at 10%. In this case, the amount of deduction is not limited by the amount of output VAT calculated on sales of goods (works and services) and property rights.
- The amount of input VAT related to activities that are subject to VAT at 0%. In this case, the amount of deduction is not limited by the amount of output VAT calculated on sales of goods (works and services) and property rights.
- The amount of input VAT related to sales of goods that are produced by a Belarusian tax resident and sold to another Belarusian tax resident for the transfer of the goods in international leasing with redemption right outside Belarus. In this case, the amount of deduction is not limited by the amount of output VAT calculated on sales of goods (works and services) and property rights and expensed for corporate profit tax purposes. Sales of goods described in the preceding sentence are exempt from VAT.
- Amounts of VAT paid from purchased fixed assets and intangible assets that were not deducted in the last fiscal period and that the taxpayer decided to deduct in equal shares in each reporting period of the current fiscal year. In this case, the amount of deduction is not limited by the amount of output VAT calculated on sales of goods (works and services) and property rights (see *Capital goods*).

**Capital goods.** A taxpayer may deduct input VAT paid on purchased fixed assets and intangible assets in accordance with the usual VAT deduction, or rules capitalize input VAT by increasing the value of the fixed asset by the amount of VAT.

For VAT deductions of the preceding fiscal period for fixed assets and intangible assets, a taxpayer may deduct them in equal shares in each reporting period of the current fiscal period (1/12 of the amount for a reporting period of a month or 1/4 of the amount for a reporting period of a quarter).

**Refunds.** If the amount of VAT deductions (input VAT) in a VAT return exceeds the amount of output VAT payable, the taxpayer need not pay VAT, and the difference between the amount of VAT deductions and total VAT calculated on sales of goods (works and services) and property rights may be deducted on a priority basis

from the total amount of VAT in the following fiscal period or refunded to the taxpayer.

The decision about reimbursement of VAT must be issued by the tax authorities not later than two working days from the date on which the taxpayer submitted the VAT return and application for refund. If the difference between the amount of VAT deductions and total VAT calculated on sales of goods (works and services) and property rights exceeds 3,000 base units (almost US\$37,500 since 1 April 2012), the tax authorities may examine the reasonableness of the refund.

The tax authorities must notify a taxpayer regarding the decision about reimbursement of VAT within two working days after the date of making the decision.

Refund of VAT from the budget is carried out by the tax authorities in the following order:

- Reimbursable VAT must be offset during one month against the following:
  - Current payments for taxes, duties and other mandatory payments to the budget.
  - Debt repayments and fines with respect to taxes, duties and other mandatory payments to the budget.
  - Debt repayments of penalties imposed by the tax authorities.
- The remaining amount of reimbursable VAT is refunded to a taxpayer not later than five working days from the closing date for offset.

If the tax authorities decided to refuse (in whole or in part) a VAT refund, they must submit a reasoned conclusion to the taxpayer not later than two working days after making such a decision.

## H. Recovery of VAT by nonestablished businesses

Only registered legal entities that engage in taxable activities in Belarus may obtain recovery of VAT.

If a foreign legal entity is registered with the Belarusian tax authorities as a permanent establishment, VAT incurred on purchases of goods (works and services), including imported goods, and property rights is generally recoverable in accordance with the usual rules (see Section G).

**Refund application.** The VAT refund application must be sent to the appropriate tax office. The application must be completed in Russian. The refund is made in Belarusian rubles (BYR) to a bank account held in Belarus. The Ministry of Taxes and Duties of the Republic of Belarus has approved a model form of refund application.

**Interest on refunds.** Refunds of differences between the amount of VAT deductions and total VAT with respect to sales of goods (works and services) and property rights are made without the payment of interest.

## I. Invoicing

**VAT invoices and credit notes.** Since 1 January 2010, VAT invoices are not mandatory.

The grounds for VAT deductions are the entries of amounts of VAT in primary accounting documents that confirm the payment

for works and services including VAT and contain specified requisites (for example, acts of acceptance).

**Proof of exports.** Goods exported from Belarus, as well as some types of works and services related to exports, are subject to VAT at a rate of 0% in Belarus. To confirm the applicability of the 0% rate, the supplier must collect and provide to the tax authorities the supporting documents.

**Foreign-currency invoices.** If money liabilities in a contract are fixed in Belarusian rubles as an equivalent to an amount in foreign currency, the VAT base is determined in Belarusian rubles, using the foreign-currency rate published by the National Bank of the Republic of Belarus on the date of actual realization.

## J. VAT returns and payment

**VAT returns.** Taxpayers must file VAT returns quarterly or monthly (at the choice of the taxpayer) with cumulative effect in the calendar year by the 20th day of the month following the reporting period. Payments must be made by the 22nd day of the month following the reporting period.

**Penalties.** The Belarusian tax law provides for the following fines with respect to the filing of VAT returns and nonpayment or partial payment of the amount of tax:

- Violation of deadline for submission of tax return (delay of not more than 3 working days): penalty of 1 to 10 base units (currently, US\$12 to US\$125)
- Violation of deadline for submission of tax return (delay of more than 3 working days): penalty of 2 base units (currently, almost US\$25) plus 0.5 base unit for each full month of delay
- Nonpayment or partial payment of tax: penalty of 20% of the underpaid tax but not less than 10 base units (currently, almost US\$125)
- Nonpayment or partial payment of tax resulting from the negligence of companies' officials: 2 to 20 base units (currently, from US\$25 to US\$250)
- Willful nonpayment or partial payment of tax: penalty of 20 to 60 base units (currently, from US\$80 to US\$240)

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## Belgium

(Country code 32)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local names	Belasting over de toegevoegde waarde (BTW) Taxe sur la valeur ajoutée (TVA)
Date introduced	1 January 1971
European Union (EU) member state	Yes
Administered by	Belgian Ministry of Finance ( <a href="http://www.minfin.fgov.be">http://www.minfin.fgov.be</a> )
VAT rates	
Standard	21%
Reduced	6%/12%
Other	Zero-rated, exempt and exempt with credit
VAT number format	BE 0456.789.123
VAT return periods	Monthly Quarterly (optional if turnover below €1 million; for some supplies of goods, the threshold is €200,000)
Thresholds	
Registration	None
Distance selling	€35,000
Intra-Community acquisitions	None €11,200 for particular categories of taxable persons
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Belgium by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge supplies received by a taxable person in Belgium
- The importation of goods from outside the EU, regardless of the status of the importer

Special rules apply to intra-Community transactions involving new means of transport (see the chapter on the EU, page 208) and to the supply of new buildings.

## C. Who is liable

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

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

Special rules apply to foreign or “nonestablished businesses.”

**Group registration.** Effective from 1 April 2007, VAT grouping is permitted under the Belgian VAT law. VAT grouping is an option for Belgian businesses and Belgian branch offices of foreign businesses. The option to create a VAT group is subject to various conditions. For example, the businesses must be financially, economically and organizationally linked with each other in order to form a VAT group. Subsidiaries in which the parent company owns more than 50% of their share capital must normally be included in the VAT group if the parent is a member. Specific rules exist regarding VAT adjustments when creating a VAT group. Transactions within a VAT group are disregarded for VAT purposes. However, in certain cases, these intragroup transactions may still be subject to VAT. Members must remain part of the VAT group for at least three years, but no deadline is provided for the group itself.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a seat of business or a fixed establishment in Belgium. A nonestablished business that makes supplies of goods or services in Belgium must register for VAT if it is liable to account for Belgian VAT on the supply or if it makes intra-Community supplies or acquisitions of goods. In some cases, nonestablished businesses are allowed to register for VAT, even if they are not liable for Belgian VAT.

The reverse charge generally applies to supplies made by non-established businesses to the following:

- Taxable persons established in Belgium that file periodic VAT returns in Belgium
- Nonestablished businesses that are registered for VAT and have appointed a fiscal representative in Belgium

Under the reverse-charge measure, the taxable person that receives the supply must account for the Belgian VAT due. If the reverse charge applies to all of the transactions of a nonestablished business in Belgium, the nonestablished business is in principle not required to register for Belgian VAT, except in specific cases (for example, an import followed by a local sale subject to the reverse-charge measure).

A nonestablished business must register for Belgian VAT if it makes any of the following supplies:

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

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

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

All nonestablished businesses must register with the office for foreign taxpayers, which is the following:

Central VAT office for foreign taxpayers  
 Registration services  
 Paleizenstraat 48, 6th Floor  
 1030 Schaerbeek  
 Belgium

**Late-registration penalties.** A penalty of €50 is assessed for late VAT registration. If the late registration results in the late payment of VAT, an administrative fine of 10% calculated on the VAT due and late payment interest at a rate of 0.8% per month may be imposed.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F). Certain supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include the following:

- Exports of goods outside the EU and related services
- Intra-Community supplies of goods and intangible services supplied to another taxable person established in the EU, or to any recipient outside the EU (see the chapter on the EU, page 208)

In Belgium, the following VAT rates apply:

- Standard rate at 21%
- Reduced rates at 6% and 12%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

Real estate transactions (except “new buildings” and accompanying building land)  
 Services of doctors and dentists  
 Finance  
 Insurance  
 Human organs

### Examples of goods and services taxable at 0%

Newspapers  
 Tobacco

**Examples of goods and services taxable at 6%**

Books and magazines

Certain foodstuffs

Drugs and medicines

Water

Accommodation

Improvements and renovations to buildings

Original works of art

**Examples of goods and services taxable at 12%**

Public housing

Restaurant services (excluding drinks)

**E. Time of supply**

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

**Goods.** The time of supply for goods is one of the following:

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

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

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

**Continuous supplies of services.** For a continuous supply of services for which either periodic invoices are issued or periodic payments are made, the time of supply is at the end of each period for which each statement of account or payment relates.

If the recipient is liable to account for the VAT due for a continuous supply of services under the business-to-business (B2B) main rule and if no invoices are issued or payments are made, the time of supply is at the end of each year.

**Additional time of supply rules.** VAT becomes due with respect to a supply of goods or services before the basic tax point if either of the following takes place before the basic time of supply:

- An invoice is issued (not applicable to services falling under the B2B main rule)
- Payment is received

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

**Intra-Community supplies.** The time of supply for an intra-Community supply of goods is the 15th day of the month following the time of supply (see above). If the supplier issues an invoice before this date, the time of supply is when the invoice is issued. The supplier is required to issue an invoice before the fifth working day following the time of supply.

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

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

## **F. Recovery of VAT by taxable persons**

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

Input tax includes VAT charged on goods and services supplied in Belgium, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services (see the chapter on the EU, page 208).

A valid tax invoice or customs document must generally accompany a claim for input tax. Exceptions apply to supplies for which the recipient is liable for the VAT due (reverse charge).

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

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### **Examples of items for which input tax is nondeductible**

50% purchase, lease, hire, maintenance or fuel for cars (except in certain specific cases, such as car dealers)

Private expenditure

Business gifts (unless valued at less than €50, VAT excluded, per unit)

Alcohol

Tobacco

Hotel accommodation, meals and beverages (exceptions may apply)

Reception costs

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

Purchase, lease, hire, maintenance or fuel for vans and trucks

Attending conferences, seminars and training courses

Expenditure for the collective social benefit of employees

Business use of home telephone

Advertising

Transport

Books

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

In Belgium, the amount of input tax that a partially exempt business may recover may be calculated using either of the following methods:

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

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

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

- Buildings (adjusted for a period of 15 years).
- Other movable capital assets (adjusted for a period of five years). Effective from 7 January 2007, certain services also qualify as capital goods in Belgium. For example, intellectual property rights (including patents, licenses and trade marks or immovable work undertaken by the tenant of a building) are considered to be capital goods if they are amortized for accounting purposes over a period of five years or more.

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

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may

request a refund of the credit by marking the relevant box on the VAT return form. A refund may generally be requested only at the end of a quarter. However, a taxable person that meets certain conditions may receive permission to request monthly VAT refunds.

### **G. Recovery of VAT by nonestablished businesses**

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

For businesses established in the EU, refund is made under the terms of the EU 8th Directive (2009 and earlier years) or Directive 2008/9/EC (2010 and subsequent years). For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. Belgium does not exclude any non-EU country from the refund scheme.

Effective from 1 January 2010, Belgium also adheres to the European changes with respect to VAT refunds to European non-established businesses that are included in the so-called “VAT package.” VAT refund claims of EU businesses not established in Belgium (previously covered by the 8th Directive) can be filed through a portal website in the home country of the nonestablished entity. Original invoices no longer need to be submitted with the refund claim. These new rules apply to refund claims filed after 31 December 2009.

For the general VAT refund rules applicable to the refund schemes for EU businesses (former 8th Directive and new rules effective from 1 January 2010) and non-EU businesses (13th Directive), see the chapter on the EU, page 208.

**Refund application.** Effective from 1 January 2010, in principle, the European harmonized rules for VAT refunds to EU businesses apply in Belgium to refund claims filed as of 1 January 2010 (see the chapter on the EU, page 208).

Claims no longer need to be filed on paper. Instead, they must be filed through a portal website in the home country. In some cases, electronic copies of invoices must be added, depending on the type of cost and the taxable amount of the invoice.

The minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is €400. For an annual claim, the minimum amount is €50.

Effective from 1 January 2010, the statute of limitations for all refund claims is reduced from three years to one year. As a result, claims must be submitted before 30 September of the following year. Under the prior rule, the deadline was 31 December of the third year following the tax point. For 2009 claims, an extension was granted until 31 March 2011.

In principle, the rules for refunds applicable to non-EU businesses remain unchanged after 1 January 2010, with the exception of the reduced period for the filing of refund claims (claims need to be filed before 30 September of the following year).

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

Effective from 1 January 2010, in principle, the six-month period mentioned above is reduced to four months (see the chapter on the EU, page 208).

## H. Invoicing

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

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the EU, page 208).

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

**Proof of exports and intra-Community supplies.** Belgian VAT is not chargeable on supplies of exported goods and on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Belgium. Acceptable proof includes the following documentation:

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

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

## I. VAT returns and payment

**VAT returns.** Belgian VAT returns are usually submitted for monthly periods. Taxable persons with a turnover of less than €1 million may opt to submit returns quarterly (for some supplies



of goods, the threshold is €200,000). For taxable persons with more than €400,000 of intra-Community supplies of goods per year, a monthly filing is required. Taxable persons that file quarterly returns must prepay the VAT monthly based on the amount of VAT payable in the previous quarter. Return liabilities must be paid in euros.

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

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

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

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

## J. EU declarations

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

The threshold for INTRASTAT Arrivals for the 2011 calendar year is €700,000.

The threshold for INTRASTAT Dispatches for the 2011 calendar year is €1 million.

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

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

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

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

Effective from 1 January 2010, in addition to intra-Community supplies of goods, the ESLs must also contain information regarding cross-border supplies of services to other taxable persons (B2B), established in other EU member states. Supplies of goods are marked by the letter “L” and supplies of services by the letter “S.” Intra-Community sales performed by party B in simplified triangulation schemes must continue to be marked by the letter “T.”

Effective from 1 January 2010, ESLs are filed monthly by monthly VAT filers and quarterly by quarterly VAT filers. Under some conditions, quarterly VAT filers must also file monthly ESLs.

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

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## Bolivia

(Country code 591)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al Valor Agregado (IVA)
Date introduced	July 1986
European Union (EU) member state	No
Administered by	Internal Taxes Service ( <a href="http://www.impuestos.gov.bo">http://www.impuestos.gov.bo</a> )
VAT rate	13% (nominal rate) 14.94% (effective rate)
VAT number format	9999999999 (taxpayer identification number [NIT])

VAT return period	Monthly
Thresholds	
Registration	Commencement of sales activity
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- Sales of movable goods placed in Bolivia by taxable persons
- All services rendered in Bolivia
- Importation of goods
- Leasing

## C. Who is liable

A registered VAT payer is a business entity or individual that performs the following actions:

- Habitually sells movable goods
- Sells movable goods on behalf of others
- Renders any type of services
- Engages in the operational or financial leasing of movable or fixed goods
- Makes definitive imports (these are products that are purchased in foreign countries and brought into Bolivia)

**Group registration.** Grouping for VAT purposes is not allowed under Bolivian law. Legal entities that are closely connected or are related parties must register for VAT individually.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Bolivia. A nonestablished business must register as a taxpayer if it makes “habitual” supplies of goods or services in Bolivia. Under the applicable regulation, “habitually” must be determined by weighing the nature, amount or frequency of the sales of property and services.

A nonestablished business is not required to appoint a tax representative to register for VAT.

**Reverse-charge services.** In Bolivia, the reverse charge for services does not apply.

**Late-registration penalties.** Penalties for late VAT registration include the closing of the business until the situation is rectified.

## D. VAT rates

In Bolivia, VAT applies at a rate of 13% to supplies of goods or services, unless a specific measure provides an exemption. The effective rate of VAT is 14.94%, because VAT must be included in the sales price.

The following supplies are exempt from VAT:

- Goods imported by members of diplomatic corps recognized in Bolivia
- “Bonafide” introduced merchandise, up to a limit of US\$1,000
- Life insurance quotas (monthly payments with respect to a life insurance contract)

- For securities registered on the Bolivian Stock Exchange, capital gains generated by sales, results derived from the valuation processes determined by the Financial Supervisory Authority of Bolivia (Autoridad de Supervisión del Sistema Financiero, or ASFI) and results generated in the application of generally accepted accounting principles
- Transfers of goods or assets subject to the securitization process (*titularización*) administered by the securitization association, at the beginning and end of the process (under this process, the goods must be transferred to an independent fund [*patrimonio autonomo*] and, when the process is completed, the goods are returned to the original owner)
- Operations regarding sales or transfers of portfolios (financial intermediation, insurance and pension)
- Inbound tourism and lodging services for foreign tourists without a residence or address in Bolivia
- Artistic events focused on production, presentation and promotion of theater, dancing, national folklore, painting, sculpture and movies of Bolivian artists, if they are sponsored or developed in locations in Bolivia that are managed or owned by a municipal government or the Bolivian government

Exports are taxed at a zero rate.

### E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax event.” The tax event for goods is when the goods are delivered or when an act that implies the transfer of the ownership occurs. The tax event for services is the earlier of when the service is performed or completed, and when full or partial payment of the price is received.

**Continuous supply of services.** The continuous supply of services (electricity, water, and gas that is delivered to homes) must be invoiced on a monthly basis.

**Imported goods.** The tax event for imported goods is when the goods clear all customs procedures.

### F. Recovery of VAT by taxable persons

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

Input VAT includes VAT charged on goods and services supplied in Bolivia and VAT paid on imports of goods.

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

**Nondeductible input VAT.** Input VAT cannot be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur).

For deducting VAT credit with respect to transactions in an amount of Bs 50,000 or more, payment supports (checks, vouchers or other documents) issued by a financial intermediation

entity regulated by the ASFI are required. These documents must have the following information:

- Business name of the financial institution (issuer)
- Transaction or operation number
- Transaction date
- Transaction amount

It is also required that payment supports for transactions in an amount of Bs 50,000 or more must be reported to the tax authorities on a monthly basis.

**Refunds.** If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output VAT in the following tax period. The amount of input VAT is adjusted based on the variation of the Unidades de Fomento a la Vivienda (UFV), an index published by the Bolivian Central Bank that takes into account inflation.

A taxable person that paid too much VAT for a tax period because of an error may request a refund of the overpaid amount.

### **G. Recovery of VAT by nonestablished businesses**

Bolivia does not refund VAT incurred by businesses that are not established in Bolivia nor registered for tax purposes.

### **H. Invoicing**

**Sales invoices and credit notes.** A taxable person must provide a VAT sales invoice for all taxable supplies made, including exports (subject to VAT at a zero rate). A VAT invoice is required to support a claim for input VAT deduction.

A credit note can be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain the same information as a sales invoice, and it can only be used with respect to the devolution of goods (total or partial) and the rescission of services.

**Exports.** Bolivian VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that the goods have left Bolivia. The related input VAT can be reimbursed through the issuance of tax devolution certificates (CEDEIMs) that can be negotiated as securities. Invoices for export transactions must be identified with the text “Commercial invoice for exports” (“Factura comercial de exportación”) and must be specifically authorized by the tax authorities.

**Foreign-currency invoices.** If an invoice is issued in foreign currency, the values for VAT purposes must be converted to local currency (bolivianos). The value must be converted using the official exchange rate on the tax-event date published by the Bolivian Central Bank.

### **I. VAT returns and payment**

**Returns.** VAT returns are submitted for monthly periods. Returns and payment in full are due between the 13th and the 22nd day of the month following the end of the return period. The due date depends on the last digit of the taxpayer’s identification number (NIT).

VAT liabilities must be paid in bolivianos.

**Penalties.** Penalties are assessed for errors and omissions with respect to VAT reporting. The penalties include the following:

- A penalty of UFV 150 for individuals and UFV 400 for business entities for not filing a tax return
- A penalty of UFV 150 for individuals and UFV 400 for business entities for not filing a corrected tax return increasing the tax that should have been paid on the original tax return
- A penalty ranging from 20% to 100% of the tax due for unpaid VAT

In addition, interest and inflation adjustments based on changes to the UFV are assessed on unpaid VAT.

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

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## **Bonaire, Sint Eustatius and Saba (BES-Islands; extraordinary overseas municipalities of the Netherlands)**

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*Please direct all queries regarding the BES-Islands to the following persons in the Curaçao office:*

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*Effective from 10 October 2010, the Netherlands Antilles consisting of five territories in the Caribbean Sea (Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten) was dissolved. Curaçao and Sint Maarten became autonomous countries within the Kingdom of the Netherlands. Curaçao and Sint Maarten have their own laws and regulations. Bonaire, Saba and Sint Eustatius (the BES-Islands) are now extraordinary overseas municipalities of the Netherlands, but they have their own tax system including a simplified general expenditure tax regulation. Chapters on Curaçao and Sint Maarten appear on pages 147 and 575, respectively. The following chapter provides information on taxation in the BES-Islands only.*

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### **A. At a glance**

Name of the tax	General expenditure tax (GET)
Local name	Algemene bestedingsbelasting
Date introduced	1 January 2011
European Union (EU) member state	No
GET rates	
Bonaire	
Standard rate for services provided	6%
Standard rate for delivery of goods	8%
Standard rate for import of goods	8%

Other	7%
Sint Eustatius and Saba	
Standard rate of services provided	4%
Standard rate for delivery of goods	6%
Standard rate for import of goods	6%
Other	5%
GET number format	3XX.XXX.XXX (9 digits)
GET return periods	Monthly
Thresholds	None
Recovery of GET by nonestablished businesses	No

## B. Scope of the tax

GET applies to the following transactions:

- The delivery in the BES-Islands of manufactured goods by a manufacturer in the course of its business
- Services provided in the BES-Islands by an entrepreneur in the course of its business
- The import of goods

## C. Who is liable

A BES entrepreneur, including a manufacturer, that delivers goods, provides services or manages assets to obtain revenue from the assets on a permanent basis is liable for GET, unless an exemption or a reverse-charge mechanism (that is, the customer receiving the services is liable for GET) applies. An entrepreneur is a business entity or individual who delivers goods, provides services or manages assets to obtain revenue from it on a permanent basis. A BES entrepreneur is an entrepreneur that resides in or is established in the BES-Islands or that has a permanent establishment in the BES-Islands from which it provides services.

A manufacturer is considered to be an entrepreneur in the BES-Islands if it provides goods by using raw materials or intermediate goods.

**Nonestablished business.** A “nonestablished business” is a business that does not have a fixed establishment in the BES-Islands. A nonestablished business may become liable for GET and accordingly become subject to registration if it is deemed to have a permanent establishment in the BES-Islands. The GET law does not provide a definition of a permanent establishment.

Special rules apply to the lease of real estate to individual residents of the BES-Islands and trading and services depots.

**Leases of real estate.** Leases of real estate that is equipped and designed to be used as a permanent residence and is permanently used by individual residents of the BES-Islands is not subject to GET.

**Trading and service depots.** Specific services provided by entrepreneurs established in trading and services depots in the BES-Islands

and services provided or goods delivered to entrepreneurs established in the trading and services depots in the BES-Islands are not subject to GET if the services provided or goods delivered are legally allowed to be used by such entrepreneurs.

**Small enterprises.** A small enterprise is a resident individual entrepreneur who has a business or permanent establishment in the BES-Islands and who realized revenue (excluding GET) in the preceding calendar year of US\$20,000 or less. If a request filed with the tax authorities is granted, a small enterprise is not liable to GET. However, small enterprises must still declare the revenue for monthly periods. Social or cultural organizations may also be exempted from GET.

**Group registration.** The GET law does not allow grouping for GET purposes. Legal business entities that are closely connected must register for GET individually.

**Late-registration penalties.** In general, a BES entrepreneur, including a manufacturer, that begins taxable activities must register with the tax authorities. No specific deadline for registration is imposed. In addition, no specific penalty is imposed for late registration. However, if the late registration results in the late payment of GET or the late submission of GET returns, penalties may be imposed.

#### **D. GET rates**

The term “taxable supply” refers to a supply of goods and services that is liable to GET. The term “exempt supply” refers to a supply of goods and services that is not liable to GET.

In Bonaire, the following four rates of GET apply:

- Standard GET rate for services provided: 6%
- Standard GET rate for delivery of goods: 8%
- Standard GET rate for import of goods: 8%
- Other: 7%

In Sint Eustatius and Saba, the following four rates of GET apply:

- Standard GET rate for services provided: 4%
- Standard GET rate for delivery of goods: 6%
- Standard GET rate for import of goods: 6%
- Other: 5%

The above-mentioned standard rates of GET are applied to the payment for the delivery of goods or services provided or to the customs value of the goods imported, unless a specific measure provides for an exemption. The other GET rates of 7% and 5% apply to the supply of insurance through a broker.

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

##### **Examples of exempt supplies of goods and services**

Medical services

Basic necessities such as bread, cereal, potato and rice

Water and electricity services

Transportation services

Betting and gaming (casino)



Services to a trading and services depot

Postal services

**Exports.** Revenue realized from supplies of exported goods by an entrepreneur is exempt from GET.

### E. Time of supply

The time when GET becomes due is called the “time of supply.” The basic time of supply for taxable supplies is the date on which the invoice is issued.

### F. Recovery of GET

Manufacturers in the BES-Islands may recover GET.

### G. Recovery of GET by nonestablished businesses

Nonestablished businesses may not recover GET in the BES-Islands.

### H. Invoicing

**GET invoices.** In the BES-Islands, an invoice must be issued by an entrepreneur within 15 days following the end of the month in which the supply or service takes place.

### I. GET returns and payment

**GET returns.** GET returns are generally submitted for monthly periods. However, on request of an entrepreneur, the tax authorities may allow other periods if they consider the periods to be appropriate. Returns must be filed and GET due must be paid by the 15th day of the month following the end of the reporting period. The GET due for the period must be remitted together with the return.

**Penalties.** GET penalties are assessed for the late submission of a GET return or for the late payment of GET, in the following amounts:

- Late submission of a GET return: fine of up to US\$1,400
- Late payment of GET: fine of up to US\$5,600

If the late payment is caused by negligence or dishonest conduct, a fine equal to 100% of the GET payable may be imposed.

Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct.

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## Botswana

(Country code 267)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 July 2002
European Union (EU) member state	No
Member of the Southern African Customs Union	Yes
Administered by	Botswana Unified Revenue Services ( <a href="http://www.burs.org">http://www.burs.org</a> )
VAT rates	
Standard	12%
Other	Zero-rated and exempt
VAT number format	C01234567890 for companies I01234567890 for individuals P01234567890 for partnerships T01234567890 for trusts
VAT return periods	Monthly (annual taxable supplies in excess of P 12 million) Bi-monthly (annual taxable supplies below P 12 million)
Registration threshold	P 500,000
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

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

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

**C. Who is liable**

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

The VAT registration threshold is P 500,000. A taxable person must notify the Botswana VAT authorities of its liability to register for VAT within 21 days after becoming liable.

**Group registration.** The Botswana VAT Act does not permit group registration.

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

**Late-registration penalties.** The following penalties apply if a person fails to register for VAT within 21 days after becoming liable:

- If the failure was due to recklessness or made knowingly, a fine not exceeding P 10,000 or imprisonment for a period not exceeding two years, or both
- In all other cases, a fine not exceeding P 5,000 or imprisonment for a period not exceeding one year, or both
- A penalty of twice the output tax payable from the time when the person became liable to the time when the person registered for VAT

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

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate (0%). The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Persons that make exempt supplies are not entitled to input tax deduction (see Section F).

In Botswana, the two rates of VAT are the standard rate of 12% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the zero rate or an exemption.

The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Medical services provided in a public medical facility  
 Supply of prescription drugs  
 Education  
 Some agricultural farming implements  
 Financial services (unless provided for a fee, charge or commission)

### **Examples of goods and services taxable at 0%**

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

## E. Time of supply

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

Other tax points are used for a variety of situations.

**Supplies between related persons.** The following is the tax point for supplies between related persons:

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

**Periodic supplies.** The tax point for periodic supplies is the earlier of the date on which payment is due or the date on which payment is received.

**Supplies to a branch or principal business outside Botswana.** The tax point for goods or services provided to a branch or principal business outside Botswana is when the goods are delivered or when the services are performed.

**Imports.** The tax point for imported goods depends on the customs regime that applies to the import. The following are the applicable rules:

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

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

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

## F. Recovery of VAT by taxable persons

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

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

**Nondeductible input tax.** VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain specified business expenses.

The following tables provide examples of items of expenditure for which input tax is not deductible even if the expenditure is for purposes of making a taxable supply and examples of items for which input tax is deductible if related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Purchase and hire of passenger cars

Entertainment including food, accommodation and hospitality of any form

Sponsorship which constitutes entertainment subscriptions to sports and recreational clubs

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

Purchase, hire and maintenance of nonpassenger motor vehicles

Maintenance of passenger motor vehicles

Advertising

Parking

Mobile phones

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

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

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

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

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

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

**G. Recovery of VAT by nonresidents**

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

## H. Invoicing

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

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

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

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

## I. VAT returns and payment

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

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

**Penalties.** The greater of the following penalties is imposed for the late payment of VAT:

- P 50 per day or part thereof
- 10% of the outstanding tax for each month or part thereof

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

Interest is charged on outstanding tax or penalties at a rate of 1.5% per month or part thereof, compounded monthly.

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

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

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## Brazil

(Country code 55)

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### A. At a glance

Names of the taxes	State Value-Added Tax (ICMS) Federal Value-Added Tax (IPI) Municipal Service Tax (ISS) Federal Gross Receipt Contributions (PIS-PASEP/COFINS)
Local names	Imposto sobre circulação de mercadorias e serviços (ICMS) Imposto sobre produtos industrializados (IPI) Imposto sobre serviços (ISS) Contribuição para os programas de integração social e de formação do patrimônio público (PIS-PASEP) Contribuição para o financiamento da seguridade social (COFINS)
Date introduced	
ICMS	1989
IPI	1964
ISS	1968
PIS-PASEP	1970
COFINS	1991
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.fazenda.gov.br">http://www.fazenda.gov.br</a> ) Internal Revenue Service ( <a href="http://www.receita.fazenda.gov.br">http://www.receita.fazenda.gov.br</a> )
VAT rates	
ICMS	1.5% to 35% (for supplies in the same state) 7% to 12% (for supplies made to a taxable person in a different state)
IPI	0% to 330% (depending on the IPI tariff table classification for the goods)
ISS	2% to 5% (depending on the municipality)

PIS-PASEP	0.65% (for taxpayers taxed under the presumed income tax method of calculation, under the cumulative system) 1.65% (for taxpayers taxed under the annual actual income tax method, under the noncumulative system)
COFINS	3% (for taxpayers taxed under the presumed income tax method of calculation, under the cumulative system) 7.6% (for taxpayers taxed under the annual actual income tax method, under the noncumulative system)
Thresholds	
Registration	
ICMS, IPI and ISS	Commencement of taxable activity
PIS-PASEP/COFINS	Commencement of sales activity (including receipt of nonoperational revenue, such as rent)
VAT return periods	
ICMS	Monthly
IPI	Monthly and every year
ISS	Monthly (depending on the municipality where the taxpayer is located)
PIS-PASEP/COFINS	Monthly
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

In Brazil the following types of value-added tax (VAT) are in effect:

- State VAT (ICMS)
- Federal VAT (IPI)
- Municipal Service Tax (ISS)
- Gross Receipt Contributions (PIS-PASEP and COFINS)

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

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

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

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



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

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

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

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

A foreign company providing services fully provided outside Brazil for the benefit of a Brazilian recipient may be subject to ISS (withheld by the Brazilian entity) even if a nonresident pays for the services.

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

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

**Gross Receipt Contributions.** The Gross Receipt Contributions (PIS-PASEP and COFINS) are social contributions based on turnover, which are levied on companies' gross revenue, on a monthly basis. Exports are not subject to PIS-PASEP and COFINS.

Import operations are also subject to PIS-PASEP and COFINS.

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

### C. Who is liable

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

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

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

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

**Group registration.** VAT grouping is not allowed under Brazilian VAT laws.

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

**Late-registration penalties.** The penalty for late registration for ICMS is a fine, which may vary from 1% to 80% of the value of the transactions that occurred before registration. Penalties also relate to several IPI, PIS-PASEP, COFINS and ISS errors, including failure to register (see Section H).

#### D. VAT rates

**ICMS.** ICMS rates vary from state to state. Brazil has 27 states. For supplies made to a customer located in the same state as the supplier, rates typically range from 1.5% to 35%. The standard rate of ICMS is 17% (18% in São Paulo and 19% in Rio de Janeiro).

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

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

The ICMS rate on a supply of goods or services made to an ICMS taxpayer resident in a different state from the state where the supplier is resident depends on where the customer is resident. The following are the rates:

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

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

**IPI.** IPI rates vary from a zero rate (0%) to 330%. The rate of IPI chargeable on a supply of finished goods depends on the classification of the goods under the IPI Tariff Table. The table contains 9,728 different classification codes. The IPI Tariff Table

uses the same tariff classification system as the Brazilian External Tariff Code (TEC or BTEC).

The rate of IPI varies, depending on how essential the product is considered to be. For example, the zero rate of IPI applies to essential products such as rice and wheat flour, a low rate of IPI (8%) applies to certain products, such as pipes, and the highest rate of IPI (365%) applies to “superfluous” or luxury products. Some goods are exempt from IPI. In other cases, essential products may benefit from a reduced tax base (which reduces the effective rate of tax), or a deferral or suspension of the tax due.

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

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

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

Some companies and products are subject to special tax treatment for PIS-PASEP and COFINS, which apply different rates for some products. For example, the automotive industry pays PIS-PASEP at a rate of 1.47% and COFINS at a rate of 6.79% on specific products. Other industries, such as the pharmaceutical, cosmetics and the beverage industries, also have special treatment for PIS-PASEP and COFINS.

## **E. Recovery of VAT by taxable persons**

**ICMS.** An ICMS taxpayer may recover input tax (that is, obtain a credit) for VAT charged on goods and services supplied to it that are subject to another taxable transaction. An ICMS taxpayer generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. ICMS may not be recovered before a taxpayer begins making taxable supplies.

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

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

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

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

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

**Nondeductible input tax.** For ICMS and IPI purposes, input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur or general overhead costs), or on goods acquired before registration as a taxpayer.

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

## F. Recovery of VAT by nonestablished businesses

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

## G. Invoicing

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

A credit note (input invoice) must contain the same information as a VAT invoice, but it is not valid in all situations.

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

**Foreign-currency invoices.** All VAT invoices must be issued in Brazilian reais (R\$).

## H. VAT returns and payment

**ICMS.** ICMS returns must be submitted for monthly periods. The VAT return consists of the following two parts:

- A payment receipt (GARE)
- An ICMS declaration detailing all ICMS credits and debits during the period

The specific date for submission depends on the taxpayer's business activities.

Return liabilities must be paid in Brazilian reais.

**IPI.** IPI is generally payable every month (depending on the type of products sold), using a payment receipt (DARF). Return liabilities must be paid in Brazilian reais.

For IPI, the following two different returns are required:

- The most frequent return, which must be submitted monthly, is called the Declaration for Federal Taxes and Contributions (DCTF).
- The second return is a corporate income tax return (DJPJ) that contains information about IPI and covers the preceding calendar year. This return must be submitted to the tax authorities each year by 30 June.

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

ISS payments and returns are generally due monthly, but the rules differ between municipalities (Brazil has more than 5,500 municipalities). All documents must be retained for a period of five years.

**PIS-PASEP and COFINS.** PIS-PASEP and COFINS taxpayers must submit the Declaration for Federal Taxes and Contributions (DCTF) to the federal tax authorities monthly. They must also submit the Declaration for PIS and COFINS Purposes (DACON) to the federal tax authorities on a monthly basis.

PIS-PASEP and COFINS payments are due monthly.

### Penalties

*ICMS.* For ICMS purposes, penalties are assessed for errors and omissions connected to the taxpayer's primary obligation (payment of tax) or secondary obligations (such as proper bookkeeping). These errors include the following:

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

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

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

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

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

### I. Other matters

**Benefits for the 2013 Federation Internationale de Football Association Confederation Cup and 2014 Federation Internationale de Football Association World Cup.** The Federation Internationale

de Football Association (FIFA), and other legal entities and individuals involved in transactions regarding the 2013 FIFA Confederation Cup and 2014 FIFA World Cup will be granted tax benefits with respect to certain events occurring in the period of 1 January 2011 through 31 December 2015.

FIFA will be discharged of IPI, PIS, COFINS and certain other tax payments regarding certain events derived from its activities related to the organization and performance of the FIFA Confederation and World Cups.

In general, companies related to or registered with the FIFA are granted the suspension of IPI, PIS-Importation, COFINS-Importation, Import Tax and certain other taxes and fees with respect to the purchase of goods for use or consumption exclusively in the events, such as food, medical supplies, fuel, trophies, medals, promotional material, printed and nondurable goods (that last up to one year).

For durable goods and equipment, a legal measure provides that the importation may be performed under the Special Customs Regime of Temporary Admission, which grants temporary suspension of taxes. After the end of the competition, if durable goods imported through this regime are exported or donated to public-interest entities, the suspensions will turn into tax exemptions.

FIFA or its Brazilian subsidiary must request qualification for the events, temporary business bases (units to develop activities related to the hosting and organization of events by beneficiaries domiciled abroad), legal entities and individuals eligible for the above-mentioned fiscal benefits. However, FIFA and its Brazilian subsidiary must first request their own qualification and the qualification for the Local Organizing Committee (LOC). If FIFA or its Brazilian subsidiary is not able to request this qualification, the LOC may request it, after prior authorization.

The qualification for temporary business bases established by FIFA, FIFA confederations, foreign associations that are members of FIFA, FIFA's official broadcaster, FIFA's service providers and by FIFA's commercial partners will be conditioned on the appointment of a representative domiciled in Brazil that will be the attorney with power to solve any issues and receive official communications. Such bases must be registered with the National Registry of Legal Entities (Cadastro Nacional de Pessoa Juridica, or CNPJ), and are the responsibility of the attorney mentioned above.

On 16 December 2011, the National Council for Fiscal Policy (Conselho Nacional de Política Fazendária, or CONFAZ) and the states signed an ICMS Agreement, which grants ICMS exemption and suspension for operations related to the FIFA Confederation and World Cups if the following conditions are satisfied:

- The operations must be discharged of at least one of the following federal taxes:
  - Import Tax
  - IPI
  - PIS
  - COFINS

- The taxpayer must be qualified through a Permanent Technical Committee (Comissão Técnica Permanente, or COTEPE) Act.

Such dispositions must be included in the internal legislation of each state. This may take some time because the agreement was signed recently. However, under the law, if states fail to ratify the ICMS Agreement within 15 days after the agreement is published, the ratification is tacit, and the dispositions in the agreement become valid.

**Special tax regime for construction, expansion, renovation or modernization of football stadiums.** In general, the Special Tax Regime for Construction, Expansion, Reform and Modernization of Football Stadiums (Regime Especial de Tributação para Construção, Ampliação, Reforma ou Modernização de Estádios de Futebol, or RECOPA) grants the suspension of IPI, PIS and COFINS with respect to domestic sales and importation of machinery, devices, instruments and new equipment for construction, expansion, renovation or modernization of stadiums to be used in the Confederation Cup and World Cup official games. Goods and materials imported by RECOPA beneficiary companies are not subject to Import Tax and acquisitions of local and foreign services by such companies are not subject to federal taxes.

The tax benefits apply to projects approved on or before 31 December 2012 except for companies under the National “Simples” taxation system. The benefits can be enjoyed with respect to acquisitions and importations from the date Law No. 12350 was published (21 December 2010) through 30 June 2014.

Only legal entities previously qualified or co-qualified by the Brazilian Revenue Service can make transactions with RECOPA support, and such qualification may be requested by the holder of a project previously approved by the Ministry of Sports for construction, expansion, renovation or modernization of soccer stadiums with intended use in official matches of the 2013 FIFA Confederation Cup and the 2014 FIFA World Cup. A company hired by a qualified company to execute activities or provide goods related to its project may request the co-qualification.

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 April 1994
European Union (EU) member state	Yes (effective from 1 January 2007)
Administered by	Ministry of Finance ( <a href="http://www.minfin.bg">http://www.minfin.bg</a> )
VAT rates	
Standard	20%
Reduced	9% for hotel accommodation
Other	Zero-rated and exempt
VAT number format	BG123456789 (BG + 9 digits) BG1234567890 (BG + 10 digits)
VAT return periods	Monthly
Thresholds	
Registration	BGN 50,000
Distance selling	BGN 70,000
Intra-Community acquisitions	BGN 20,000
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The taxable supply of goods or services in Bulgaria that is made for consideration
- Reverse-charge services received by a Bulgarian taxable person
- Intra-Community acquisitions
- The acquisition of new means of transport and excise goods by taxable or nontaxable persons
- The importation of goods into Bulgaria, regardless of the status of the importer

**C. Who is liable**

A taxable person is a business entity or individual that carries out an economic activity in Bulgaria, whatever the purpose or the result of that activity. This rule applies regardless of whether the supplier is a local or foreign entity or an individual.

**Mandatory registration.** The VAT registration threshold is taxable turnover of BGN 50,000 in any 12 consecutive months. If a business reaches this threshold, it must apply for VAT registration within 14 days after the end of the month in which the threshold is reached. For these purposes, taxable turnover includes turnover derived from taxable supplies chargeable at the standard rate of VAT (20%) or the reduced rate (9% for hotel accommodation), zero-rated supplies and financial and insurance services within the principal activity of the supplier.

**Mandatory registration for intra-Community acquisitions.** A taxable person or a nontaxable legal person that makes intra-



Community acquisitions in Bulgaria must register for VAT if its intra-Community acquisitions exceed the threshold of BGN 20,000 for a calendar year.

**Mandatory registration for cross-border services.** A taxable person rendering or receiving cross-border services subject to the reverse charge must register for VAT purposes in Bulgaria, regardless of its taxable turnover.

**Voluntary registration.** A taxable person may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold.

**Unincorporated partnerships.** If two or more entities enter into a contract to perform a joint activity, the contract is deemed to form an unincorporated partnership under the Bulgarian tax law. This unincorporated partnership is treated as a taxpayer, separate from the founding entities that constitute it. The unincorporated partnership is subject to all the general rules of the Bulgarian VAT law, including those relating to VAT registration, deregistration and reporting. The VAT registration of an unincorporated partnership does not result in the VAT registration of the entities that have entered into the contract for joint activity.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Bulgaria. A nonestablished business must register for VAT in Bulgaria if it makes taxable supplies of goods or services (unless the reverse charge applies), or intra-Community acquisitions.

**Tax representatives.** A foreign person established in a non-EU country that has not entered into an agreement for mutual assistance with Bulgaria must appoint a resident tax representative to register for VAT purposes in Bulgaria. The representative assumes joint and unlimited liability for the VAT liabilities of the non-established business. The tax representative must be appointed using a notarized VAT agency agreement.

**Deregistration.** A registered person may deregister when it ceases to make taxable supplies and the conditions for mandatory VAT registration are no longer met.

**Required VAT deregistration.** VAT deregistration is mandatory on the winding up of a company or on the death of a taxable individual.

**Late-registration penalties.** The penalty for nonregistration ranges from BGN 500 to BGN 5,000. An additional penalty equal to the amount of VAT that should have been charged may be imposed. A penalty ranging from BGN 500 to BGN 5,000 may be assessed for failure to deregister on time.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are subject to VAT. “Exempt supplies” are supplies of goods and services that are not subject to VAT and that do not give rise to a VAT deduction.

The following are the three VAT rates in Bulgaria:

- Standard rate: 20%
- Reduced rate: 9% for hotel accommodation
- Zero rate (0%)

No VAT is chargeable on zero-rated supplies but the taxable person may deduct the related input tax.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Certain real estate transactions  
Leasing of residential buildings to individuals  
Financial services  
Insurance and reinsurance services  
Health  
Education, cultural and sports services  
Betting and gambling

**Examples of supplies of goods and services taxable at 0%**

Exportation of goods  
International transport and related services  
Intra-Community supplies  
Services related to the international traffic of goods  
Inward processing of goods (under certain conditions)  
Supplies related to duty-free trade  
Intermediary services of agents, brokers or other intermediaries related to zero-rated supplies

For certain supplies (for example, sales of old buildings) the taxable person may opt for taxable or exempt treatment.

**E. Date of supply**

The date when VAT becomes due is called the “date of supply” or “tax point.” The tax point for goods is the transfer of ownership of the goods. The tax point for services is the date of completion of the service. VAT also becomes due on the date of the receipt of an advance payment for supplies of goods or services to the extent of the payment received.

**Deferred ownership transfer.** If the transfer of ownership in goods is deferred until the fulfillment of certain conditions, the date of supply is the date of the delivery of the goods.

**Leased assets.** The date of supply for assets supplied under financial-leasing contracts is the date of delivery. For financial-leasing contracts involving only an option for ownership transfer, the date of supply is the date of each lease payment or the date on which the payment becomes due, whichever is earlier.

**Continuous supplies.** The time of supply for periodic or continuous supplies is the date of each payment or the date when the payment is due, whichever is the earlier. If a supply is rendered continuously for more than one year and if no payment is made or due during that period, the date of supply is considered the end of the calendar year.

**Intra-Community acquisitions.** The date of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition was made. If the supplier issues an invoice before this date, the date of supply is the

date on which the invoice is issued. The general rule for advance payments does not apply to intra-Community acquisitions.

**Reverse-charge services.** If a nonestablished business makes certain supplies of services to a business established in Bulgaria, the reverse charge applies. Under the reverse-charge regime, the recipient must self-assess for the Bulgarian VAT due on the supply. The recipient of the service must account for and pay Bulgarian VAT on the supply, using a special form (protocol). The Bulgarian recipient of the service may fully or partially recover the self-assessed VAT if the recipient makes both taxable and exempt supplies (see Section F).

The date of supply for reverse-charge services is the date on which the service is completed, or the date when payment is made, whichever is earlier.

**Imported goods.** VAT for imported goods is chargeable when the goods clear customs.

**Postponed accounting for imports.** A taxable person may obtain permission to postpone payment of VAT on goods imported for investment projects approved by the Ministry of Finance.

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

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax by offsetting it against output tax. Input tax includes VAT charged on goods and services received in Bulgaria, VAT paid on imports and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services received (see the chapter on the EU, page 208).

Input VAT is deductible from output VAT charged in the same VAT period or from VAT charged in the following 12 months.

The amount of VAT reclaimed must be detailed on one of the following:

- A valid VAT invoice
- A protocol for reverse-charge VAT
- A customs declaration

Special rules apply to the recovery of input tax incurred on assets acquired before registration.

**Non deductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Nonbusiness expenditure

Business entertainment

Business gifts

Purchase, lease or hire of a car, and parking and maintenance costs (unless the car is used for core business activities)

Fuel for cars

Taxi services

Home telephone costs

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

Purchase, lease and hire of vans and trucks

Fuel for vans and trucks

Mobile phones

Conferences and seminars

Advertising

Books

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

The amount of the monthly input tax that may be deducted is calculated based on the percentage of supplies with tax credit compared to the total amount of supplies for the preceding calendar year. The monthly calculation is adjusted annually by calculating the ratio between the supplies with right to VAT credit and the total supplies performed by a person during a year. The adjustment is made in the VAT return for the last month of the year. The recovery percentage is rounded up to two decimal places.

**Refunds.** If the input tax recoverable exceeds the output tax chargeable for a tax period, a taxable person has a VAT credit balance. A taxable person may claim a refund of the VAT credit through the submission of its VAT return to the tax authorities.

The VAT credit must be used to offset output tax for two consecutive months, beginning with the month following the month when the VAT return was submitted. If an outstanding amount of VAT credit remains after the offsetting period, the taxable person may request a refund from the tax authorities within 30 days. A shorter 30-day term (without offsetting procedure) applies to persons whose zero-rated supplies exceed 30% of the total value of supplies made in the tax period and for investors specified by the Ministry of Finance.

**G. Recovery of VAT by nonestablished businesses**

The Bulgarian VAT authorities refund VAT incurred by businesses that are not established in Bulgaria and that are not registered for VAT there. For these purposes, an establishment includes any of the following:

- Registered trade representative office
- Branch

- Office
- Bureau
- Studio
- Plant
- Workshop
- Retail store
- Trade warehouse
- Service station
- Site for assembling goods
- Construction site
- Mine
- Quarry
- Drill
- Oil or gas well, spring or other premises related to exploiting natural resources
- Premises (owned, rented or available for use) or any other place from which the person fully or partially carries out independent business activity in Bulgaria

For businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive.

For foreign businesses established outside the EU, the principle of reciprocity applies; that is, the country where the claimant is established must also provide VAT refunds to Bulgarian businesses.

## H. Invoicing

**VAT invoices and credit notes.** A Bulgarian taxable person must issue invoices for all taxable supplies made, including exports and intra-Community supplies. Invoices are not required for retail transactions, unless requested by the customer. Invoices may not be issued for supplies made free of charge, for financial services and for certain other supplies. A document qualifies as a valid invoice if it complies with the requirements set out in the Bulgarian VAT Act.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 9th or 13th Directive refund schemes.

Credit or debit notes are issued for reducing or increasing the tax base of previous supplies. They should explicitly indicate the invoices to which they refer and the reasons for the corrections.

Invoices and credit or debit notes can also be issued by recipients on behalf of suppliers if written agreements between the parties are concluded in advance.

A special tax document (protocol) is issued for transactions that are subject to reverse-charge accounting by the recipient.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods. However, to qualify as VAT-free, export and intra-Community supplies must be supported by evidence that the goods have left Bulgaria. Acceptable proof includes the following documentation:

- For exports, a copy of the export document, officially verified by the customs authorities and indicating the supplier as exporter
- For intra-Community supplies, the VAT number of the recipient and commercial documentation such as proof of delivery confirmations

**Foreign-currency invoices.** Invoices may be issued in any currency, provided that the tax base and the amount of VAT due are expressed in Bulgarian lev (BGN). Foreign-currency invoices must be converted into Bulgarian lev at the exchange rate of the Bulgarian National Bank on the date on which tax becomes due.

## I. VAT returns and payment

**VAT returns.** Bulgarian taxable persons file VAT returns monthly. VAT returns must be filed by the 14th day of the month following the tax period. Payment in full is required by the same date. VAT liabilities must be paid in Bulgarian lev. Effective from 1 January 2012, VAT returns must be filed electronically if the taxable person has recorded more than five sales or purchase invoices.

**Penalties.** The penalty for failing to submit VAT returns or maintain VAT ledgers (sales and purchase ledgers) or for submitting inaccurate VAT information ranges from BGN 500 to BGN 10,000.

The penalty for failing to charge VAT is the amount of VAT not charged, but not less than BGN 500.

The penalty for persons who fail to self-assess VAT is the higher of 5% of the corresponding VAT and BGN 50.

The penalty for a failure to issue VAT documents that results in the payment of VAT in a smaller amount is the unpaid amount, but not less than BGN 1,000.

## J. EU declarations

**INTRASTAT.** A Bulgarian taxable person trading goods with other EU countries must complete statistical reports, known as INTRASTAT if the value of the goods exceeds certain thresholds. Separate reports are required for Arrivals and Dispatches. The thresholds for declaration are determined by the National Statistics Institute on 31 October and apply for the following year.

The threshold for INTRASTAT Arrivals for 2012 is BGN 200,000 (for 2011, it was BGN 180,000).

The threshold for INTRASTAT Dispatches for 2012 is BGN 230,000 (for 2011, it was BGN 200,000).

A taxable person is not required to report the statistical value of the goods (the value of the goods plus additional transport and insurance expenses) if its turnover arising from intra-Community trade in goods for 2012 does not exceed the following:

- Dispatches: BGN 9,500,000 (BGN 7,500,000 for 2011)
- Arrivals: BGN 4 million (BGN 3,400,000 for 2011)

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

INTRASTAT returns are submitted monthly in electronic format by the 10th day of the month following the respective month.

The penalty for late submissions or for missing or inaccurate declarations ranges from BGN 200 to BGN 1,000.

**EU Sales Lists (VIES declarations).** Bulgarian taxable persons that make intra-Community supplies, supplies as intermediaries in triangular operations or supplies of reverse-charge services must file EU Sales Lists (ESLs; called VIES Declarations) with the Bulgarian National Revenue Agency. An ESL is not required for any period in which the taxable person has not made any supplies required to be reported in an ESL.

Intra-Community acquisitions of goods are not reported in ESLs.

ESLs must be submitted monthly by the 14th day after the end of the respective month.

Electronic filing of ESL returns is mandatory.

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

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**A. At a glance**

Name of the tax	Goods and Services Tax (GST)
Date introduced	1 January 1991
Name of the tax	Harmonized Services Tax (HST)
Date introduced	1 April 1997
Administered by	Canada Revenue Agency ( <a href="http://www.cra-arc.gc.ca">http://www.cra-arc.gc.ca</a> )
Sales tax rates	
GST standard	5%
HST standard	
Quebec	9.5% (see Sections B and D)
British Columbia	12% (see Sections B and D)
Ontario	13%
New Brunswick, and Newfoundland and Labrador	13%
Nova Scotia	15%
Other	Zero-rated and exempt
Business number format	15 characters (9 numeric/2 alpha/4 numeric)



GST/HST return periods	Monthly (turnover in excess of C\$6 million, optional for other registrants) Quarterly (turnover between C\$1,500,000 to C\$6 million, optional for other registrants) Annual (turnover below C\$1,500,000)
Thresholds	
Registration	C\$30,000
Recovery of GST or HST by nonestablished businesses	No

## B. Scope of the tax

Canada's federal government imposes a 5% sales tax known as the Goods and Services Tax (GST). When a supply is made in a "participating province," the tax rate includes an additional provincial component of 7%, 8% or 10%, depending on the province. The combined 12%, 13% or 15% tax is known as the Harmonized Sales Tax (HST). When the HST was first implemented, effective from 1 April 1997, the original "participating provinces" were New Brunswick, Newfoundland and Labrador, and Nova Scotia. These provinces adopted a provincial component of 8%.

The combined rate in New Brunswick and Newfoundland and Labrador is currently 13%. Nova Scotia increased its provincial component to 10%, effective from 1 July 2010, and its combined rate is now 15%. Effective from 1 July 2010, the provinces of British Columbia and Ontario adopted the HST. Ontario's provincial component is 8%, which results in a combined HST rate of 13%. British Columbia has a provincial component of 7%, which results in a combined HST rate of 12%. In implementing the HST, the participating provinces repealed their individual retail sales taxes and share in the revenues generated by the HST. HST applies to the same base of goods and services that are subject to GST.

To address significant opposition to the adoption of the HST in British Columbia, the provincial government opted to hold a binding public referendum on the issue as to whether the province should retain the HST or return to the previous system, under which a provincial sales tax (PST) and the federal GST were levied. The results of the referendum were announced 26 August 2011, with 55% of voters choosing to restore the previous system. On that date, the British Columbia government announced that it will exit the federally administered HST system and reinstate the former PST. The target date is currently set for 1 April 2013.

Although the province of Quebec is not considered a "participating province," it replaced its own retail sales tax and harmonized with the GST (subject to some exceptions) when it implemented its own Quebec sales tax (QST) on 1 July 1992. The QST rate is 9.5%, effective from 1 January 2012 (increased from 8.5%). Because the QST is calculated on price plus GST, the effective rate is 9.975%, resulting in a combined QST/GST effective rate of 14.975%.

On 30 September 2011, the Quebec and federal finance ministers signed a memorandum of agreement regarding sales tax

harmonization that provides for the implementation of certain changes to the QST that will take effect on 1 January 2013. On that date, QST will no longer be calculated on price plus GST. As a result, the QST rate will increase to 9.975% from 9.5% to maintain the current combined effective rate of 14.975%. Also, effective from 1 January 2013, financial services, which are currently zero-rated for QST purposes, will become exempt to parallel the treatment of those services under the GST and HST systems. As a result, financial institutions will no longer be able to recover the QST paid on their purchases of goods and services used for exempt activities, resulting in unrecoverable tax and accordingly additional costs.

The provinces of Manitoba, Prince Edward Island and Saskatchewan continue to impose their own retail sales tax, while the province of Alberta and Canada's three territories do not impose a retail sales tax.

Unless otherwise indicated, the GST rules described below also apply for the provincial component of the HST.

GST applies to taxable supplies of property and services made in Canada in the course of a business, and to imports of goods into Canada. Specific HST rules determine when a supply is made in a participating province and when property or services are brought into a participating province. Unlike traditional value-added taxes, GST is designed as a tax on the purchaser, with an obligation imposed on the vendor to collect the GST as an agent for the Crown.

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

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

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

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

### **C. Who is liable**

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

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

“Commercial activity” means any of the following activities:

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

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

The definition of a “person” includes individuals, partnerships, corporations, trusts, estates of deceased individuals and bodies such as societies, unions, clubs, associations, commissions or other organizations of any kind.

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

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

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

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

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

- Persons who solicit orders for publications to be delivered in Canada by mail or courier
- Taxi operators
- Nonresidents who sell taxable supplies of admissions in Canada for places of amusement, seminars, activities or events held in Canada

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

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

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

For purposes of the election, two corporations are “closely related” if one of the corporations (or a closely related subsidiary) owns at least 90% of the voting shares of the other. In general terms, the

election is available only to Canadian residents. However, Canadian resident corporations that are closely related as a result of being related to a nonresident or nonregistrant corporation or to a chain of such corporations are eligible to use the election if all of the other conditions for making the elections are satisfied.

The election is also available to groups that include partnerships, referred to as “Canadian partnerships.” A “Canadian partnership” is defined as a partnership in which each member is a corporation or partnership and is resident in Canada.

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

**Nonresident businesses.** A nonresident business that does not carry on business in Canada but solicits orders for the supply of goods in Canada, or enters into an agreement to supply certain goods, services or intangible property in Canada, may register on a voluntary basis to claim input tax credits (see Section F). A nonresident business is not required to appoint a tax representative in Canada to register for GST. However, a nonresident business with no permanent establishment in Canada must provide a security deposit to the GST authorities to obtain registration.

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

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

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

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

## D. GST rates

The term “taxable supplies” refers to supplies of goods and services that are liable to GST. The 13% HST rate applies to supplies of property and services made in New Brunswick, Newfoundland and Labrador, and Ontario. The HST rate of 12% applies in British Columbia, and the rate of 15% applies in Nova Scotia. As discussed in Section B, British Columbia has announced that it will exit the federally administered HST system and reinstate the former PST system with a target date currently set for 1 April 2013. QST (see Section B) at a rate of 9.5% applies in the province of Quebec (before 1 January 2012 the rate was 8.5%). QST is calculated on a GST-inclusive price, resulting in an effective tax rate of 14.975%. On 1 January 2013, QST will no longer be calculated on price plus GST. As a result, the QST

rate will increase to 9.975% from 9.5% to maintain the effective combined GST/QST rate of 14.975%.

The 5% GST rate applies to supplies of property and services made elsewhere in Canada (including taxable supplies made in British Columbia when the province reinstates its PST system). A zero rate (0%) applies to a limited range of supplies of property and services. Although tax does not apply to zero-rated supplies, a registrant may claim input tax credits with respect to these supplies. As a result, zero-rated supplies bear no tax.

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

The following tables list examples of exempt and zero-rated supplies of property and services (these lists are not exhaustive).

#### **Examples of exempt supplies**

Supplies of used residential property

Financial transactions (as discussed in Section B, financial services are currently zero-rated in Quebec, but they will become exempt, effective from 1 January 2013)

Most supplies by charities and public sector bodies

Healthcare

Education

#### **Examples of zero-rated supplies**

Exports of goods and services

Basic foodstuffs

International transportation

Prescription drugs

Medical devices

Certain inputs used in agriculture and fishing

### **E. Time of liability for tax**

In general, tax becomes payable by the recipient of a taxable supply on the earlier of the date on which the consideration for the supply is paid or the date on which the consideration becomes due. The consideration is considered to be paid when the supplier receives the money (or other form of agreed consideration) for the supply. The consideration for a taxable supply is deemed to become due on the earliest of the following dates:

- The date on which the supplier issues an invoice with respect to the supply
- The date of the invoice
- The date on which the consideration falls due under a written agreement
- If an undue delay occurs in the issuance of an invoice for services, the date on which the supplier would have issued an invoice with respect to the supply, but for the delay

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

**Imported goods.** Tax on imported goods becomes due when the goods are released by the Canada Border Services Agency for entry into Canada. Specific HST rules apply when property or services are brought into a participating province.

## **F. Recovery of GST by registrants**

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

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

A registrant generally claims its input tax credits in the GST return for the reporting period in which the tax becomes payable. However, a registrant may claim an input tax credit at a later date. Recovery is generally possible in any return filed within four years after the end of the reporting period in which the tax became payable. The recovery period is reduced to two years for certain large businesses (more than C\$6 million in annual taxable supplies) and listed financial institutions.

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

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

The following tables set out examples of items of expenditure for which input tax credits may not be claimed and examples of items for which input tax credits are available if the expenditure is related to use in commercial activities (these lists are not exhaustive).

### **Examples of items ineligible for input tax credits**

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

### **Examples of items eligible for input tax credits (if related to commercial activities)**

Hotel accommodation  
Attending conferences and seminars  
Purchase, lease or hire of cars, vans or trucks, subject to certain limits  
Maintenance and fuel for cars, vans or trucks  
Parking  
Mobile phones

**Temporary recapture of input tax credits.** The provinces of British Columbia and Ontario, which implemented the HST effective from 1 July 2010, have both adopted temporary restrictions on certain input tax credits for large businesses, similar to those currently in place under the QST regime. A person is generally deemed to be a large business if either of the following conditions is met:

- The total amount of the value of the consideration for taxable supplies (including zero-rated supplies) made annually in Canada (other than supplies of financial services and supplies arising from the sale of real properties that are capital properties of the person) by the person and its associated persons exceeds C\$10 million.
- The person is, or is related to, a bank, a trust company, a credit union, an insurer, a segregated fund of insurers or an investment plan.

It was originally announced that, during the initial eight-year period of the HST in British Columbia and Ontario, large businesses must recapture (repay) a portion of the 7% or 8% provincial component of their total input tax credits calculated for HST paid or payable on specified property or services acquired in, or brought into, British Columbia or Ontario for use by that business in those provinces. These recapture requirements will be phased out over this eight-year period. For the first five years, beginning on 1 July 2010, large businesses must recapture 100% of the provincial component of their British Columbia and Ontario HST input tax credits; the recapture rate will then be reduced by 25% over each of the following three years. As of 1 July 2018, large businesses will no longer be subject to these recapture rules.

The above approach will apply in Ontario. However, as discussed in Section B, British Columbia has announced that it will exit the federally administered HST system and reinstate the former PST system with a target date currently set for 1 April 2013. As a result, these temporary restrictions in British Columbia will cease to apply at that time (subject to any transitional rules that may be introduced).

For purposes of the above rules, specified property or services generally include the following:

- Specified energy
- Specified telecommunication services
- Specified road vehicles
- Specified fuel (other than diesel)
- Specified food, beverages, and entertainment

Under the memorandum of agreement signed between Quebec and the federal government (see Section B), the restrictions on input tax credits for large businesses in Quebec will be eliminated gradually, beginning in 2018. When they were introduced in 1992, the restrictions were intended to be temporary, but they have remained in place since then.

**Partial exemption.** Tax paid on inputs related to making exempt supplies is generally not recoverable as an input tax credit. A GST registrant that makes both exempt and taxable supplies may be limited to claiming a partial input tax credit.

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

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

Financial institutions are subject to special rules for calculating input tax credits.

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

### **G. Recovery of GST by nonresident businesses**

Canada does not refund GST incurred by businesses that are not registered for GST. Refunds are available to nonresidents for tax paid on short-term accommodation included in a tour package. Refunds are also available for expenditures related to conventions held in Canada if at least 75% of the attendees are nonresidents.

### **H. Invoicing**

**GST invoices and credit notes.** Strict documentary requirements must be satisfied before a claim can be made to recover tax that has been paid or become payable. Suppliers are required to provide this information on request.

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

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

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

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

**Exports.** In general, GST does not apply to exported goods. If the supplier delivers the goods outside Canada, the transaction is treated as a supply outside Canada and is generally not taxable.



If the supplier delivers the goods in Canada, the export sale is zero-rated if all of the following conditions are satisfied:

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

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

**Foreign-currency invoices.** Suppliers may invoice in foreign currency and recipients may make payments to suppliers in foreign currency.

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

## I. GST returns and payment

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

Registrants whose turnover exceeds C\$6 million a year must file returns monthly.

Registrants whose turnover is between C\$1,500,000 and C\$6 million a year must file returns quarterly (with an option of filing monthly). Registrants whose turnover does not exceed C\$1,500,000 must file annually (with an option of filing monthly or quarterly).

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

**Annual returns and payment by installment.** If a registrant is eligible to file annual returns, it may have to pay four GST installments each year. If the total net tax remittable for the current or preceding year is less than C\$3,000, quarterly installments are not required.

Installments are based on an estimate of the net tax due for the current year or the amount of net tax remitted in the preceding year, whichever is the lower amount. Interest applies to underpaid installments. The GST return filed at the end of the year reconciles the installments paid with the amount of net tax actually owed for the year. Any additional tax due must be remitted with the return.

**Penalties.** If a person fails to pay or remit an amount of tax when due, interest (at a rate prescribed by law) is payable on the amount unpaid or not remitted. Interest is compounded daily.

A person who fails to file a return when required is liable to pay a penalty equal to 1% of the outstanding balance plus 0.25% per month for each complete month the return is outstanding, up to a maximum of 12 months.

A person who fails to comply with a demand to file a return for a period or transaction is liable to a penalty equal to C\$250.

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

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

Criminal penalties may also apply in certain circumstances.

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## Chile

(Country code 56)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al Valor Agregado (IVA)
Date introduced	31 December 1974
European Union (EU) member state	No
Administered by	Internal Revenue Service (Servicio de Impuestos Internos; or SII) ( <a href="http://www.sii.cl">http://www.sii.cl</a> )
VAT rates	
Standard	19%
Other	Exempt and additional taxes (ranging from 15% to 50%)
VAT number format	Tax identification number (RUT), which is used for VAT and other tax purposes (for example, 12.345.678-0)

VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

In general, VAT is imposed on the sale of tangible goods located in Chile, and on the provision of services rendered or utilized in Chile. The following are significant aspects of the VAT rules in Chile:

- For VAT purposes, the law provides that sales are all transactions that result in the transfer of movable tangible goods. A seller is any person that habitually carries out this kind of operation. The sale of real estate can also be taxed under certain circumstances.
- Services are all actions that any person does for another for consideration (payment) if the service rendered arises from the exercise of one of the activities mentioned in Section 20 of the Income Tax Law, Subsections 3 and 4 (Subsection 3 provides rules regarding income that arises from commercial and industrial activities, and Subsection 4 governs income obtained by agents and commissioners in general).
- VAT also applies to the importation of goods into Chile.
- Other taxable transactions specified by law include, among others, withdrawals of inventory, contributions in kind and leasing of movable goods.

## C. Who is liable

A VAT taxpayer is an individual, business or entity that performs VAT taxable transactions (that is, the habitual transfer of goods or the rendering of listed services) in the course of doing business in Chile. No VAT registration threshold applies. All business entities must file a business initiation application on commencement of operations and an application for a taxpayer identification number (RUT). These measures also apply to permanent establishments of foreign entities in Chile.

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

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Chile. If a nonestablished business intends to carry out transactions in Chile that are subject to VAT (such as the transfer of goods or the provision of listed services), it is required to be registered for VAT purposes. Consequently, the nonestablished business must submit an application for an RUT number and a business initiation application, and must appoint a representative in Chile to act on its behalf. However, taking these actions may result in the conclusion that the nonestablished business has become a permanent establishment (PE) in Chile.

**Tax representatives.** A tax representative must be provided with the power to represent the business in its dealings with the tax authorities and must also register an address in Chile for this purpose. If a foreign individual is appointed as the tax representative,

in addition to the obligation to register an address in Chile, he or she must also be in possession of a valid visa that allows him or her to act in this capacity.

**Late-registration penalties.** Penalties and interest are assessed for late registration for VAT purposes. Penalties also apply for VAT fraud.

#### D. VAT rates

The terms “taxable transfer” and “taxable services” refer to the transfer of goods and the provision of services that are liable to VAT. The term “exempt supplies” refers to the supply of goods and services that are not liable to VAT. Exempt supplies do not give rise to a right of an input tax deduction.

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

The following table lists examples of exempt transfers of goods and provision of services (this list is not exhaustive).

##### **Examples of exempt transfers of goods and supply of services**

Used motorized vehicles

Importation of goods by the National Ministry of Defense

Certain real estate transactions

Admission to artistic, scientific or cultural events, sponsored by the Public Education Ministry

Premiums for or payments from life insurance contracts

Exports of goods

Entrance to sporting events

Importation of cultural or sporting awards and trophies

Services provided by independent workers

Freight from other countries to Chile and vice versa

#### E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic tax point for the transfer of goods is the earlier of the following:

- The time when the goods are delivered
- The time when the invoice is issued

The basic tax point for the provision of services is the earlier of the following:

- The time when the related invoice is issued
- The time when a full or partial payment of the consideration is received

**Imported goods.** For imports, VAT is due when the goods clear all customs procedures.

#### F. Recovery of VAT by taxable persons

A VAT taxpayer may recover input tax (also known as VAT credit), which has been charged on the goods acquired by it and the services provided to it, if these acquisitions are directly related to the

performance of activities that are taxable for VAT purposes. VAT taxpayers generally recover input tax by deducting it from output tax (also known as VAT debit), which is VAT charged on sales made and services provided.

Input tax includes VAT charged on the goods acquired and the services provided in Chile, and VAT charged on imports of goods. In general, for input tax to be recoverable, it must arise from the acquisition of current or fixed assets or from general expenses, if these acquisitions are directly related to the performance of activities that are taxable for VAT purposes. If the taxpayer performs activities that are taxable for VAT purposes, together with VAT-exempt activities or nontaxed activities, the VAT credits can only be proportionally recovered.

Exporters also may recover the VAT paid with respect to their export activities. However, because exports are exempt from VAT, VAT credits are recovered through cash reimbursements to exporters rather than under an input-output mechanism.

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

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not directly related to the performance of activities taxable for VAT purposes. In such cases, VAT paid constitutes an additional cost of goods or a deductible expense if it satisfies all of the requirements to be a deductible expense for income tax purposes. If VAT is paid for the acquisition of goods or services not related to the taxable income of the taxpayer, VAT paid may not be deductible.

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

#### **Examples of items for which input tax is nondeductible**

Business gifts

Private use of business

**Partial exemption.** Input tax is not deductible if it relates to exempt or nontaxable activities. VAT taxpayers that carry on both taxable and nontaxable or exempt activities may not recover input VAT in full. This situation is referred to as “partial exemption.” The percentage of input VAT that may be recovered is calculated based on the value of taxable operations carried out during the period, compared to total turnover.

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

If a VAT taxpayer pays excess VAT as the result of an error, it may request a refund of the overpaid amount from the tax authorities. Taxpayers may request a refund of the overpaid tax within three years after the end of the period for which the claim is made.

### **G. Recovery of VAT by nonestablished businesses**

Chile does not refund VAT incurred by businesses that are neither established nor registered for VAT purposes in Chile, unless the VAT was paid as a result of an error.

## H. Invoicing

**Tax invoices and credit notes.** A taxpayer must generally provide a tax invoice for transactions subject to VAT, including exports. A tax invoice is necessary to support a claim for input tax deduction.

A VAT taxpayer may also issue credit notes for rebates, discounts or transactions voided with respect to the acquirer of the goods or beneficiary of the services. A credit note must contain the same information as a VAT invoice.

Invoices must be issued in Chilean pesos (CH\$).

**Exports.** Chilean VAT does not apply to the export of goods. However, to qualify as VAT-free, exports must be properly supported by evidence confirming that the goods have left Chile. Invoices for export transactions must be issued in accordance with the regulations established by the National Customs Service, and must be stamped by the Chilean Internal Revenue Service.

## I. VAT returns and payment

**VAT returns.** VAT returns are submitted for monthly periods. VAT returns and payments in full are due by the 12th day of the month following the end of the return period. Return liabilities must be paid in Chilean pesos. For taxpayers authorized to issue electronic tax documents, VAT returns and payments in full are due by the 20th day of the month following the end of the return period.

**Penalties.** Penalties are assessed for a range of errors and omissions related to VAT accounting. In general, penalties for VAT errors are calculated as a percentage of the tax underpaid; penalty measures may also include closure of the business. The amount of the penalty depends on the severity and frequency of the error. The following are the classes of offenses:

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

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

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

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## China (People's Republic of)

(Country code 86)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Introduced	1 January 1994
Revised	1 January 2009 and 1 January 2012 (Shanghai VAT pilot; see Section J)
European Union (EU) member state	No
Administered by	Ministry of Finance State Administration of Taxation (SAT) ( <a href="http://www.chinatax.gov.cn">http://www.chinatax.gov.cn</a> )
VAT rates	
Standard	17%
Reduced	3%/4%/6%/13%
Other	Exempt and exempt with credit
Shanghai VAT pilot (for details, see Section J)	
General VAT taxpayers	6%/11%/17%
Small-scale VAT taxpayers	3%
VAT return periods	Tax periods range from one day to one quarter
Thresholds	
Registration	Monthly turnover from RMB 5,000 to RMB 20,000 for supplies of goods

Monthly turnover from RMB 5,000 to RMB 20,000 for supplies of services  
 Daily turnover from RMB 300 to RMB 500  
 (the local tax offices set the actual thresholds within the above ranges; see Section C)

Recovery of VAT by nonestablished businesses No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or taxable services for consideration in the People's Republic of China (China), by a taxable person in the course or furtherance of any business
- The importation of goods into China, regardless of the status of the importer

Goods and services not subject to VAT may be chargeable to Business Tax (BT), which is a type of cumulative sales tax payable on the provision of non-VAT-taxable services in China, the assignment of real property located in China and the transfer of intangible property in China.

**Supplies of goods.** A supply (sale) of goods is a transfer of ownership in the goods. The term "goods" includes electricity, heating, gas and other tangible assets. However, intangible property and real property are specifically excluded.

The following transactions are treated as supplies of goods:

- Sales made through an agent.
- Sales of goods on consignment.
- The application or appropriation of goods by a taxable person for any of the following purposes:
  - VAT-exempt activities.
  - Capital investment.
  - Appropriation to shareholders or investors.
  - Collective welfare or personal consumption.
  - Making gifts.

The place of supply for goods is where the goods are located at the time of the sale, or if the goods are transported, the place where the goods are dispatched.

**Interbranch transfers of goods.** A transfer of goods from one branch to another branch of the same taxable person for the purpose of sale is also treated as a supply of goods, regardless of whether any consideration is paid, unless the branches are located in the same county (municipality).

**Self-supplies of goods.** A self-supply of goods occurs if a taxable person diverts goods to private or exempt use and if the goods were manufactured or otherwise acquired by the taxable person and the person was entitled to an input VAT deduction (see Section F).

**Taxable services.** The following two specific types of services are the only services subject to VAT in China:



- “Processing services” (see below)
- “Repair and replacement services” (see below)

The term “processing services” means services supplied by a contractor for producing goods in accordance with a customer’s specifications by using raw materials and principal parts consigned by the customer. The term “repair and replacement services” means repairing damaged taxable goods and returning them to their original condition.

The place of supply for services is where the services are physically performed.

The supply of other services is not chargeable to VAT, but subject to BT. Nontaxable services include the following:

- Transportation
- Construction
- Banking and insurance
- Postage and telecommunications
- Cultural activities and sports
- Entertainment
- Management
- Other general services

**Mixed transactions.** Special rules apply to mixed transactions consisting of sales of taxable goods and the rendering of nontaxable services. To ease tax administration, mixed transactions carried on by enterprises and sole proprietorship businesses engaged in or mainly engaged in the production, wholesale and retail supply of goods are deemed to be supplies of goods that are liable to VAT. Other units and individuals that supply mixed transactions are regarded as providing nontaxable services that are not liable to VAT.

Special deeming provisions apply to mixed transactions involving sales of self-produced goods by providers of construction services.

**Catering supplies.** In general, food and beverages supplied by catering businesses such as hotels, restaurants, cafes, public houses and caterers, are treated as the provision of nontaxable services rather than supplies of goods. These supplies are not chargeable to VAT. Instead, they are liable to BT. However, if the “goods” element takes priority over the “service” element of the supply (for example, in the case of a business that sells only takeaway food), the transaction is treated as a supply of goods and is liable to VAT.

### C. Who is liable

A taxable person is any “unit” or individual that sells goods or supplies processing or repair or replacement services in China unless the person’s sales are below the relevant taxable thresholds. VAT is also payable on the importation of goods. The term “unit” includes enterprises, administrative units, business units, military units, and social organizations. This measure applies to persons that supply goods for export but does not include persons that exclusively produce VAT-exempt goods.

The State Council has stipulated a range of taxable thresholds for VAT registration. Local tax offices have the discretion to determine

the actual thresholds within these ranges, depending on the economic conditions within the relevant municipality or county. The following are the statutory taxable thresholds:

- Sales of goods: monthly turnover of RMB 5,000 to RMB 20,000
- Services: monthly turnover of RMB 5,000 to RMB 20,000
- Daily transactions: daily turnover of RMB 300 to RMB 500

**Transactions between branches.** Branches of the same enterprise are required to register separately for VAT, unless the head office and the branch(es) are located in the same county (municipality). However, subject to the approval of the tax authorities, the head office of an enterprise may be allowed to submit combined VAT returns for branches located in different counties (municipalities).

Transactions between branches may be subject to VAT, unless the relevant branches are located in the same county (municipality). A movement of goods between branches located in different counties (municipalities) is subject to VAT regardless of whether any consideration is paid. A distinction is made between a movement of goods to a branch for the purpose of sale to customers and movement of goods to a branch for storage. By default, a movement of goods from one branch to another is deemed to be for the purpose of sale to customers unless the enterprise can prove that it fulfills both of the following conditions to the satisfaction of the tax authorities:

- The branch that receives the goods will not sell the goods to customers on its own account, issue the relevant invoices or collect sales proceeds from the customers.
- The enterprise has obtained a special permit from its supervising tax authority that allows it to keep inventory outside the place where it is established.

If both of these conditions are fulfilled, the goods may be regarded as being moved to a branch for pure storage purposes and the transaction is not liable to VAT.

**Government bodies.** State and local authorities including administration units, business units, military units, social organizations and other government units are treated as taxable persons for the purpose of VAT.

**Group registration.** Group registration (or fiscal unity) for VAT purposes is not a recognized concept in the Chinese VAT regulations. Individual group members are regarded as independent VAT taxpayers.

**Nonestablished businesses and foreign enterprises.** Subsidiaries of foreign enterprises that supply goods or taxable services in China are treated in the same manner as other taxable persons.

Foreign enterprises that do not sell goods or taxable services in China may not register for VAT. Under the current business regulatory rules, foreign enterprises are generally not allowed to sell goods or provide processing or render repair and replacement services directly in China. Consequently, VAT registration and the payment of VAT are not issues for nonestablished businesses.

If a foreign unit or individual outside China provides taxable services in China and does not have a business office in China, the representative of such unit or individual must be the withholding

agent. If such unit or individual does not have a representative, the purchaser must be the withholding agent.

**Representative offices.** Under the current business regulatory rules, a representative office of a foreign enterprise may engage only in certain activities, such as liaison and support. A representative office may not engage in direct profit-making activities, and it is prohibited from making sales of goods. Consequently, in general, VAT is not payable with respect to the activities of a representative office and VAT registration is not permitted.

**Importers.** Any person who imports goods into China is liable to pay VAT at the point of entry, at the same rates applicable to the sale of similar goods in China. A taxable person must pay the VAT due on imported goods within 15 days after the date following the date on which the customs authorities issued the import duties statement.

#### **D. VAT rates**

In China, the positive VAT rates are 3%, 4%, 6%, 13% and 17%. The 17% rate applies unless another rate is specified by law. The reduced rate of 13% applies primarily to essential goods and services. The 4% and 6% rates apply to supplies under simplified VAT calculation methods. The 3% rate applies to supplies by small-scale VAT taxpayers (small businesses).

The following tables provide examples of goods and services taxable at each rate (these lists are not exhaustive).

##### **Examples of goods and services taxed at the 3% rate**

Taxable goods and services supplied by small businesses

##### **Examples of goods and services taxed at the 4% rate**

Certain taxable used goods

Consignment goods sold by consignment agencies

Certain goods sold by pawnbrokers

Specific duty-free items sold by duty-free shops

##### **Examples of goods and services taxed at the 6% rate**

Certain electricity produced by qualified hydroelectric-generating businesses

Certain construction materials

Certain biological products

Tap water

Certain concrete cement goods sold by general VAT taxpayers

##### **Examples of goods and services taxed at the 13% rate**

Foodstuffs

Edible plant oil

Tap water

Air-conditioning

Hot water

Coal gas

Liquefied petroleum gas

Natural gas, biogas and coal products for civilian use

Books, newspapers and magazines

Animal feeds

Fertilizers

Agricultural chemicals

Agricultural machinery

Agricultural protection covers

Agricultural products subject to minor processing

Audio and video products

Electronic publications

Dimethyl ether

#### **Examples of goods and services taxed at the 17% rate**

Other taxable goods and taxable services

A taxable person that supplies goods or taxable services with different VAT rates must separately book the value of sales of goods and taxable services at each rate. The highest rate of VAT applies if the sales made at different rates are not accounted for separately.

**Small businesses.** “Small businesses” account for VAT at a rate of 3% on a simplified, flat-rate basis if input VAT paid on purchases is not deductible. A “small business” is defined as either of the following:

- A production business that manufactures taxable goods or provides processing or repair and replacement services (taxable services) and that has annual turnover (including sales for export) of RMB 500,000 or less
- A commercial business that supplies taxable goods on a wholesale or a retail basis and that has annual turnover (including sales for export) of RMB 800,000 or less

On approval by the local tax authorities, a small business may elect to pay VAT in accordance with the relevant provisions applicable to a general taxable person if it can demonstrate that it has a sound accounting system, maintains proper accounting records, and is capable of generating accurate information for VAT assessment purposes.

**Exempt supplies.** In general, exports of goods are “exempt with credit” (or taxable at 0%). This means that no VAT applies but the exporter may recover VAT paid as input tax (see Section F). In addition, some supplies are exempt from VAT without credit (that is, the supplies are not liable to tax, but the supplier may not recover VAT as input tax [see Section F]).

The following tables provide examples of supplies that are exempt from VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Agricultural products produced and sold by primary agricultural producers

Contraceptive medicines and appliances

Antique books

Imported equipment and apparatus used directly for scientific education, scientific research, development and experiments

Imported products and equipment in the form of free economic assistance from foreign governments and international organizations

Products imported by organizations for the handicapped for their exclusive use

Sale of second-hand goods by nontaxable individuals

Currently, animal feeds, agricultural protection covers, the production of some specific types of chemical fertilizers, the trading of seeds, seedlings, chemical fertilizers, agricultural medicines, farming machinery, and the sale of self-manufacturing qualifying reclaimed water, certain rubber powder and refurbished tires, and qualifying sewage treatments are also exempted from VAT by virtue of administrative measures adopted by the Chinese tax authorities to protect farming businesses and encourage recycling in China.

#### **Examples of goods and services taxable at 0%**

Exports of goods (excluding prohibited or restricted exports)

Taxable persons that supply items eligible for tax exemption or tax reduction must book these sales separately. Otherwise, no tax exemption or reduction applies.

**Sales of second-hand goods.** In general, sales of second-hand taxable goods by taxable persons are chargeable to VAT on a simplified basis at a rate of 4% with a further 50% reduction (that is, at an effective rate of 2%).

Sales of second-hand taxable goods by nontaxable individuals are exempt from VAT.

Special rules apply to sales of used fixed assets.

### **E. Time of supply**

The “time of supply” is the time when VAT becomes due (that is, the tax-triggering point).

**Goods.** The following are the principal aspects of the time of supply rules for goods:

- If the sales proceeds are received directly from the buyer, the time of supply is when payment is received or when an invoice is issued, whichever is earlier, regardless of whether the goods have been delivered.
- If the sales proceeds are collected through a bank, the time of supply is when the goods are dispatched.
- If payments are made by installments in accordance with a sales and purchase agreement, the time of supply is when each installment is due. In the absence of a written contract or specification of the date of collection in the contract, the tax point is the date on which the goods are dispatched.
- If payment is made in advance, the time of supply is when the goods are dispatched. For large-scale machines and equipment, ships, aircraft and other goods whose production period exceeds 12 months, the time of supply is the date on which the advance payment is received or the date of collection specified in the written contract.
- For supplies of goods made through a consignment agent, the VAT payable by the consignor is due when the consignor receives the sales confirmation list or the payment from the consignment agent, whichever is earlier. However, if the consignor receives neither the sales confirmation list nor the payment from the consignee within 180 days from the date of dispatching goods, the

goods are regarded as having been supplied to the consignee and VAT will be payable accordingly.

**Taxable services.** The time of supply for the provision of taxable services is when the payment for the service is received or when an invoice is issued, whichever is earlier.

**Imports.** VAT is payable for imported goods when the goods are declared to Customs.

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by crediting it against output tax, which is VAT charged on supplies made. However, input VAT credit is not allowed for small businesses that are subject to VAT at a flat rate (see Section D). Input tax includes VAT paid by a taxable person on the acquisition and importation of taxable goods and services that are acquired for the purposes of the taxable person's business activities. No credit is permitted with respect to purchases made for other purposes. To claim input VAT credits, a taxable person must comply with the following conditions:

- It must be registered with the tax authorities as a general VAT taxpayer (not as a small business).
- It must maintain a reliable accounting system and provide accurate information for assessing its VAT liabilities.
- It must hold a valid VAT invoice obtained from the vendor (see Section H), a tax certificate issued by the customs authorities or other valid supporting documents including transportation invoices and agricultural product procurement certificates.

A taxable person may recover input VAT as soon as it has a valid VAT invoice or a tax certificate issued by the customs authorities or other valid supporting documents. It is not necessary to wait until the purchaser has paid for the goods or the supplier has paid the output VAT to the tax authorities. The claim for input VAT credit must be made in the VAT return for the period in which the invoice or other documents are validated by the tax authorities. A taxable person must submit all input VAT invoices and other documents to the tax authorities for verification within 180 days after the date of issuance of the documents.

**Imputed credits.** A taxable person may also claim the following imputed credits in calculating its net VAT payable:

- 7% of the transportation expenses incurred in delivering taxable goods for domestic sales, if the expenses are supported by proper transportation invoices issued by a transportation company
- 13% of the purchase value of VAT-exempt agricultural products purchased from primary agricultural producers or agricultural cooperative societies

**Noncreditable input tax.** Input VAT is not creditable on the acquisition or importation of the following items:

- The purchase of taxable goods or services used in nontaxable activities, except for fixed assets put into use for both taxable and nontaxable activities (see Section B)
- The purchase of taxable goods or services used in VAT-exempt activities

- The purchase of taxable goods or services for collective welfare or personal consumption
- The “abnormal loss” of purchased taxable goods and associated taxable services
- The abnormal wastage of purchased taxable goods or services consumed in the production of merchandise or finished products
- Consumer goods for self-consumption of taxable persons that are specified by the competent authorities for financial and taxation affairs under the State Council
- Transportation expenses for goods specified in the above items and for the sales of VAT-exempt goods

“Abnormal losses” include losses resulting from a range of events including theft, decay or deterioration of goods as a result of poor management, but excluding normal wear and tear sustained in the ordinary course of the taxable person’s business.

**Export refund.** A taxable person that supplies goods for export must register with the relevant local authorities responsible for overseeing foreign trade to obtain an approved Foreign Trade Operator Registration Form. It can use this form to complete a registration with the relevant tax authorities and confirm its entitlement to export refund.

With the exception of certain types of goods, exports of goods are generally exempt with credit; that is, input VAT previously paid on the purchase of goods and services used for the production of goods for export is refunded on application. This procedure is commonly known as the “VAT export refund.” However, the VAT exemption with credit mechanism does not apply to certain types of goods. For those goods whose VAT export refund rates are less than the applicable VAT rates for normal supply, the taxable person must bear the difference as a cost, even though the goods are sold for export. Such VAT cost is commonly referred to as an “export VAT leakage” or “input VAT disallowance.”

Depending on the type of exporting enterprise, the VAT export refund and the input VAT disallowance are calculated based on the different methods described below.

*Manufacturing enterprises (assuming no tax-exempt raw materials).* For companies engaging in the production of taxable goods, the following are the calculations of the input VAT disallowance and the relevant creditable input VAT.

**Calculation of input VAT disallowance (Calculation #1)**

Input VAT disallowance = Free on Board (FOB) value of export sales x (Applicable VAT rate – VAT export refund rate)

**Calculation of creditable input VAT (Calculation #2)**

Creditable input VAT = Total input VAT – Input VAT disallowance (as determined in Calculation #1) + Excess input VAT brought forward from previous period

The taxable person must compute VAT payable for each reporting period by using the following calculation.

**Calculation of VAT payable (Calculation #3)**

VAT payable = Output VAT due on sales for the period – Creditable input VAT (as determined in Calculation #2)

If the amount of creditable input tax in a period is greater than the output VAT due on sales in that period (that is, Calculation #3 results in a negative balance), the taxable person is entitled to a VAT export refund.

The VAT export refund is equal to the lesser of the following amounts:

- FOB value of export sales x VAT export refund rate
- The absolute value of Calculation #3 if the calculation results in a negative balance

*Commercial enterprises.* For a taxable person carrying on a commercial business that involves the purchase of taxable goods in China for export, the following are the calculations of the VAT export refund and the input VAT disallowance:

$$\text{VAT export refund} = \text{Price paid for the purchase of taxable goods} \times \text{Applicable VAT export refund rate}$$

As a result, the taxable person bears an input VAT disallowance that goes into its cost. This disallowance is determined in the following calculation:

$$\text{Input VAT disallowance} = \text{Price paid for the purchase of taxable goods} \times (\text{Applicable VAT rate} - \text{VAT export refund rate})$$

*Procedure.* The claim for a VAT refund must be applied for on a monthly basis, after completion of the necessary export procedures with the customs authorities. The application must be supported by documents including the export declaration, valid VAT invoices issued by the vendors and other relevant documents.

If goods that were sold for export are returned, the taxable person must adjust the VAT refund accordingly.

**Partial exemption.** Taxable persons that make taxable supplies and other supplies (such as exempt supplies and outside the scope supplies) are only entitled to claim input VAT incurred in making their taxable supplies as credits. Input tax is not creditable for any purchases that are directly related to making exempt supplies.

If a taxable person has purchases or imports that are used to make both taxable and exempt or outside the scope supplies, an apportionment of input VAT is allowed. The allowable input VAT credit is generally calculated using the ratio of turnover from taxable supplies compared with the total turnover of that month from all supplies.

## G. Recovery of VAT by nonestablished businesses

China does not refund VAT to businesses that are not established there.

## H. Invoicing

**VAT invoices.** A general VAT taxpayer must register and procure approved VAT invoices from the tax authorities. The taxable person must also designate and register an individual employee as a representative who is responsible for administering the custody and control of VAT invoices. A valid VAT invoice is needed to support any claim for input VAT recovery (see Section F).



A VAT invoice may only be issued for supplies of taxable goods or services made to taxable recipients. A VAT invoice must contain the following information:

- The supplier's VAT registration number
- The purchaser's VAT registration number
- The date of issuance of the invoice
- The name, address and telephone number of the taxable person supplying the taxable goods or services
- The name, address and telephone number of the taxable person purchasing the taxable goods and services
- The bank account numbers of the supplier and the purchaser
- A full description of the taxable goods or services supplied
- The quantity or volume of goods supplied
- The consideration (exclusive of VAT)
- The rate or rates of VAT and the amount of tax chargeable at each rate

An ordinary invoice must be issued if an invoice is required in specified circumstances. The supplier may not issue a VAT invoice for the following:

- The supply of goods (such as cigarettes, alcohol, foods, garments, shoes, hats and cosmetics) to ultimate consumers by VAT taxpayers that engage in retail sales.
- The sale of VAT-exempt goods unless otherwise stipulated by specific rules or regulations.
- The supply of taxable goods or services by small-scale taxpayers. However, small-scale taxpayers can apply to the relevant tax authority to issue VAT invoices on their behalf for supplies of taxable goods or services.

### **I. VAT returns and payment**

In China, VAT tax periods vary in length. A VAT tax period may be 1 day, 3 days, 5 days, 10 days, 15 days, 1 month or 1 quarter. The length of the tax period is determined by the local tax authorities, based on the amount of VAT payable by the taxpayer. If VAT payments cannot be made on a fixed-period basis, VAT may be paid on a transaction basis.

Taxable persons that have a VAT tax period of 1 month or 1 quarter must submit VAT returns and pay the VAT due on a monthly or quarterly basis within 15 days after the end of the period. Taxpayers that have a VAT tax period shorter than one month must make provisional VAT payments within five days after the end of the tax period. They must also submit a VAT return and settle the VAT payable for the previous month by the 15th day of the following month.

**Penalties.** Authorized tax officers have extensive powers relating to the inspection and seizure of records. If a tax officer is of the opinion that a taxable person has underpaid the VAT due, the officer may issue an assessment based on the correct figures or on an estimate.

### **J. Shanghai VAT reform pilot**

On 16 November 2011, the Chinese Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly issued Caishui [2011] No 110 and Caishui [2011] No 111, which set out the details of the Shanghai VAT pilot arrangement (VAT pilot

rules). The VAT pilot arrangement is a significant step towards the planned wider structural VAT reform.

**VAT pilot location and start date.** Shanghai is the VAT pilot location and the VAT pilot rules are effective from 1 January 2012.

**Scope of the VAT pilot arrangements.** The following tables list the services that were subject to Business Tax (BT) but are now subject to VAT (VAT pilot services).

#### **Transportation industries**

Land transportation

Water transportation

Air transportation

Pipeline transportation

#### **Certain modern services industries**

##### *Research and development (R&D) and technology services*

R&D services

Technology transfer services

Technology consulting services

Contract energy management services

Project survey and exploration services

##### *Information technology services*

Software services

Circuit design and testing services

Information system services

Operation process management services

##### *Culture creative services*

Design services

Trademark and copyright transfer services

Intellectual property services

Advertising services

Conferencing and exhibition services

##### *Logistics auxiliary services*

Aviation services

Port services

Transport terminal services

Salvage assistance services

Cargo transport agent services

Customs brokerage services

Storage services

Loading-unloading transportation services (business activities of loading, unloading and transporting cargoes between means of transportation, between loading and unloading spots or between the means of transportation and the loading and unloading spots through loading and unloading facilities or manpower and animal power)

##### *Movable property leasing*

Operating leases

Finance leases

*Authentication and consulting services*

Verification services  
 Authentication services  
 Consulting services

Caishui [2011] No 111 provides detailed definitions of each of the above VAT pilot services.

**Classes of VAT taxpayers and applicable VAT rates.** Under the VAT pilot rules, the following are the two classes of VAT taxpayers:

- General VAT taxpayers, which are VAT taxpayers providing VAT pilot services with annual turnover of RMB 5 million or more
- Small-scale VAT taxpayers, which are VAT taxpayers providing VAT pilot services with annual turnover of less than RMB 5 million

It is possible for small-scale VAT taxpayers to voluntarily apply to become general VAT taxpayers.

The following tables list the applicable VAT rates for the various classes of VAT taxpayers and the different types of VAT pilot services.

**General VAT taxpayers***17% rate*

Movable property leasing

*11% rate*

Transportation services

*6% rate*

R&D and technology services

Information technology services

Culture creative services

Logistics auxiliary services

Authentication and consulting services

**Small-scale VAT taxpayers***3% rate*

All VAT pilot services

The VAT pilot rules provide for zero-rating. The MOF and SAT will determine the scope of zero rating.

**Place of supply of VAT pilot services.** The place of supply of VAT pilot services is in China if either the service supplier or the service recipient is located in China.

The following services are considered to be outside China:

- VAT pilot services provided by an overseas supplier that are consumed entirely outside China
- Movable property leased by an overseas supplier that is used entirely outside China

**Output VAT and new VAT computation method.** The following is the calculation for output VAT:

$$\text{Output VAT} = \text{Sales amount} \times \text{Applicable VAT rate}$$

If consideration received by a VAT pilot service provider is VAT-inclusive, the following is the calculation of output VAT:

$$\text{Output VAT} = \text{VAT-inclusive sales amount} \div (1 + \text{Applicable VAT rate})$$

The VAT pilot rules contain a new computation method. The new method incorporates the “netting” mechanism that is currently applicable to certain supplies of services subject to BT. Certain items may be deducted from the total consideration received for the provision of VAT pilot services if the BT netting mechanism already applies to the supply of VAT pilot services. The following are examples of these items:

- Amounts paid to Shanghai-based taxpayers that are excluded from the VAT pilot arrangements
- Amounts paid to taxpayers located outside Shanghai

If a Shanghai VAT taxpayer concurrently sells goods, provides processing and maintenance services and provides VAT pilot services, it must separately account for the different supplies that are subject to different VAT rates. If the taxpayer cannot separately account for the VAT-able sales amount, it must compute its output VAT based on the higher VAT rate.

The VAT pilot rules include the concept of deemed supply of services. A special valuation method applies if a deemed supply of services exists or if the sales amount for VAT pilot services is found to be too high or low without a reasonable commercial purpose.

**Input VAT and new creditable item.** General VAT taxpayers that incur VAT on the purchase of goods, the receipt of processing, repair and maintenance services and the receipt of VAT pilot services, for the purpose of providing VAT pilot services, may treat the VAT incurred as input VAT. The following input VAT amounts may be credited against output VAT:

- VAT amounts indicated on special VAT invoices issued by the sellers or service providers
- VAT amounts indicated on import VAT payment certificates
- 13% of the purchase value of agricultural products purchased from primary agricultural producers or agricultural cooperative societies unless special VAT invoice or import VAT payment certificates are obtained
- 7% of the transportation expenses incurred in delivering taxable goods for domestic sales if the expenses are supported by proper transportation invoices issued by transportation companies or individuals, unless the special VAT invoice is obtained
- VAT amounts indicated on the tax clearance certificate (withholding VAT) obtained from the tax bureau if a payment is made to an overseas VAT pilot service provider

The VAT pilot rules contain specific provisions that disallow input VAT recovery.

**VAT administration matters.** Suppliers of VAT pilot services with annual revenue of more than RMB 5 million must be registered as general VAT taxpayers. After registration, the suppliers must purchase the anticounterfeit tax control equipment and issue special VAT invoices in accordance with the VAT pilot rules.

The Chinese VAT tax periods vary in length. A VAT tax period may be 1 day, 3 days, 5 days, 10 days, 15 days, 1 month or 1 quarter. The length of the tax period is determined by the local tax authorities, based on the amount of VAT payable by the taxpayer. For taxpayers that have a VAT tax period of 1 month or 1 quarter, they must submit VAT returns and pay the VAT due on a monthly or quarterly basis within 15 days after the end of the period.

**Transitional VAT exemption and VAT refund policies.** The VAT pilot rules set out 13 specific VAT exemptions, such as technology transfers and outsourcing-type services, and 4 types of transactions that are subject to special VAT refund measures.

For taxpayers included in the VAT pilot that have obtained BT incentives before 31 December 2011, the taxpayers may enjoy VAT incentives in accordance with the VAT pilot rules until the expiration of the BT incentive.

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## Colombia

(Country code 57)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto sobre las ventas (IVA)
Date introduced	29 December 1983
European Union (EU) member state	No
Administered by	Dirección de Impuestos y Aduanas Nacionales (DIAN) ( <a href="http://www.dian.gov.co">http://www.dian.gov.co</a> )
VAT rates	
Standard	16%
Reduced and increased	1.6%/10%/20%/25%/35%
Other	Zero-rated (exempt)
VAT number format	Tax identification number (NIT)
VAT return periods	Bimonthly

**Thresholds**

Simplified regime	Gross income in the previous year less than US\$53,049 (based on an exchange rate of COP 1,895 = US\$1); additional requirements apply
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Recovery of VAT by nonestablished businesses	No
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**B. Scope of the tax**

VAT applies to the following transactions:

- The sale of movable tangible goods
- Services rendered in Colombia
- Importation of movable goods into Colombia
- The operation of games of chance or the sale of tickets for games of chance (excluding lotteries)

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

- Licenses and authorizations for use and exploitation of intangible assets
- Text translation, correction and composition services
- Consulting, advisory and audit services
- Services carried out on tangible movable assets, except for those related to international transport services
- Rental of corporate movable assets, except for those to be used for international transport activities
- Insurance and reinsurance services
- Satellite connection or access services, regardless of where the satellite is located
- Satellite television services received in Colombia

**C. Who is liable**

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

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

**Simplified regime.** Retailers, individuals engaged in agriculture and cattle farming activities, artisans and certain others rendering taxable services may be registered in the National Tax Registry (Registro Único Tributario, or RUT) as VAT simplified regime taxpayers if the following conditions are fulfilled:

- The taxpayer's gross income in the immediately preceding year was less than approximately US\$53,049.
- The taxpayer has a maximum of one commercial establishment, office, premises or business where it performs its activity.
- The taxpayer does not use a franchise, concession agreement or royalty agreement with respect to the commercial establishment.

- The taxpayer is not a permanent exporter or importer.
- In the prior year, or in the current year, the taxpayer does not enter into sale agreements for goods or services exceeding approximately US\$43,765.
- During the prior year, or in the current year, bank deposits and financial investments made by the individual do not exceed approximately US\$59,680.

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

**Nonestablished businesses and the reverse-charge mechanism.** A “nonestablished business” is a business that satisfies the following two requirements:

- It does not have a permanent activity.
- The business is not conducted through a branch of a foreign company in Colombia.

If a Colombian taxable person receives services from a nonestablished business, the reverse-charge mechanism applies. Under the reverse-charge mechanism, the Colombian resident must withhold VAT due on the sale. The taxability of these services does not affect the final amount to be received by the foreign provider of the services. VAT is applied by the resident who requests the service, using a self-withholding procedure. The resident claims this self-assessed VAT as a credit in the VAT tax return of the period in which the VAT was paid, in accordance with the general rules and limitations (full, partial or no tax credit), depending on the VAT treatment of its income.

For accounting purposes, the self-assessed VAT is recorded as a credit (VAT to be paid to tax authorities). It is also recorded as a debit (creditable VAT invoiced to local customers or if not creditable, as a higher cost or expense), in accordance with the general VAT rules.

#### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT. The term “exempt supplies” refers to supplies of goods and services that are liable to VAT, but are zero-rated (0% rate). For such supplies, VAT paid to suppliers of goods and services may be discounted from (credited against) the VAT invoiced to the customers. The term “excluded supplies” refers to supplies of goods and services that are not subject to VAT and, consequently, do not give rise to a right of input tax discount (credit; see Section F).

In Colombia, the rate of VAT varies according to the type of goods or services, but in general is 16%. The 16% rate applies to all supplies of goods or services, unless a specific provision allows an exclusion from VAT or the application of a reduced rate, a zero rate or an increased rate. The following are the VAT rates and the supplies to which they apply:

- Some goods and services that cover basic needs, interest and exchange differences and certain other items (known as excluded supplies), are not subject to VAT.
- The zero rate (0%) applies principally to exports of movable tangible goods (known as exempt supplies).

- The reduced rate of 1.6% applies to cleaning and surveillance services.
- The reduced rate of 10% applies to a range of goods and services determined by the law, including, among others, rental of real estate (other than real estate devoted to family living or destined as the location for National Artisan Expo shows), toasted coffee, rice, prepaid health services, health insurance, storage of agricultural products and services rendered by hotels.
- The increased rate of 20% applies to mobile telephone services, some pick-up trucks (under specific customs subheadings) and sport boats made or assembled in Colombia.
- The increased rate of 25% applies to all other vehicles other than luxury automobiles.
- The increased rate of 35% applies to private aerodynes, luxury automobiles, and imported boats for leisure or sporting activities.

**Exported services.** The following types of services are exempt from VAT:

- Services rendered exclusively in Colombia that are used exclusively abroad by companies or individuals who are not engaged in business in the country. For exemption purposes, companies not engaged in business in Colombia include companies that are direct beneficiaries of the services. As a result, the benefit does not apply if the beneficiary of the service is a related party such as a subsidiary, branch, affiliate, representative office or home office in Colombia.
- Touristic services rendered to nonresidents in Colombia that are used in the country and that benefit an agency (company that promotes tourism by engaging in certain qualified activities) registered in the National Tourism Registration. The result of the service must be used exclusively outside Colombia. To qualify as an exporter of services, a taxpayer must be registered as an exporter of services with the RUT and the agreement for the purchase of exported services must be registered with the Ministry of Industry, Commerce and Tourism. Other legal requirements must be met.

**Withholding agents.** To improve the tax collection system, the Colombian government introduced a VAT withholding mechanism, designating certain entities as VAT withholding agents, including government departments, large taxpayers designated by the government, entities paying nonresident entities, individuals and VAT taxpayers using the common regime and entities or individuals that provide goods or services to international trade companies. These agents are responsible for withholding 50% of the tax due on any payment or accounting accrual related to taxable goods or services. For transactions with nonresident entities and individuals, the withholding rate is 100%.

**Taxable amount.** In general, the tax base equals the total value of the sale (that is, the sale price of goods or services plus any reimbursed expenses). Effective discounts included in the correspondent invoice that are not subject to any condition and that are commonly used in the market are not part of the VAT tax base. However, for construction contracts for immovable assets (real property), the tax base equals the fee paid to the entity carrying out the construction (constructor) rather than the whole value of the construction. In such cases, the creditable VAT is the tax



incurred by the constructor that is directly associated with its invoiced fee. The constructor is not entitled to credit for VAT paid on expenses that are associated with the construction.

### **E. Time of sale**

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

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

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

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

- The issuance of the invoice or equivalent document
- Termination of the provision of the service
- Payment or accrual, whichever occurs first

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

### **F. Recovery of VAT by taxable persons**

A taxable person may discount (credit) VAT paid on purchases (known as input tax) from VAT charged on sales (known as output tax), if the input tax relates to certain types of expenditure. Input tax paid on the acquisition of movable tangible goods and on services supplied to a taxable person, or VAT paid on imports of movable goods, may be claimed as a discount (credit) up to a limit determined by applying the rate of VAT charged on the supply of the goods or services provided by the taxable person to the input tax incurred. Any excess input tax paid (that is, the amount of input tax exceeding the limit determined by applying the VAT rate charged on the supply of goods and services) should be treated as a higher amount of cost or expense. In addition, for transactions with foreign suppliers, the reverse-charge (self-assessment) mechanism must be used and the VAT withheld may be treated as input tax in accordance with the general rules and limitations if the taxable person can prove to the tax authorities that the tax has been withheld. Alternatively, the VAT withheld can be treated as a higher cost or expense if the rules to claim the input tax as a credit are not met.

**Refunds.** If the amount of input VAT recoverable in a taxable period exceeds the amount of output VAT payable, the taxable person earns an input VAT credit. The credit may be refunded if either of the following applies:

- The taxable person is an exporter of goods or services.
- The taxable person supplies zero-rated (0% rate) goods or has been subject to VAT withholding and the total balance arises from the withholdings.

In addition, a refund of VAT paid on the acquisition of materials used to construct “housing of social interest” may be requested if the construction plans were approved by the Colombian government.

## G. Acquisitions or importations of industrial machinery

In general, VAT paid for the acquisition of fixed assets is not claimed as a discount (credit), but is treated as part of the cost paid for the assets and is included in the base for depreciation.

**Heavy machinery for basic industries.** VAT paid for the acquisition of heavy machinery by a company involved in one of the basic industries (for example, mining, oil and gas, and power generation) may be treated as a discount against tax due in the taxpayer's income tax returns. The discount may be applied in the tax year of acquisition or importation and in the following periods. If the imported machinery has a Cost, Insurance, Freight (CIF) value in excess of US\$500,000, VAT may be paid in the following percentages:

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

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

A special measure applies to long-term temporary imports of heavy machinery that are not produced in Colombia and that are imported by companies involved in basic industries. Under this measure, these imports are excluded from VAT, at the time of the entry of the goods into Colombia. To obtain the VAT exclusion, the importer must submit a certificate of the Ministry of Industry, Commerce and Tourism at the time of entry. This certificate must state that the machinery to be imported is not produced in Colombia and that it will be used in a basic industry.

Depending on the situation, VAT paid for the acquisition of "real productive fixed assets" may be treated as one of the following:

- A part of the cost of the goods acquired.
- A tax discount in the income tax return. This measure applies only to industrial machinery acquired or imported by producers of VAT-excluded products or the VAT paid in the acquisition or importation of heavy machinery in basic industries.

## H. Recovery of VAT by nonestablished businesses

Colombia does not refund VAT incurred by foreign or nonestablished businesses unless they are registered for VAT there. However, members of accredited diplomatic missions and members of the United Nations may claim a refund of VAT paid.

## I. Invoicing

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

**Exports.** VAT is not chargeable on supplies of exported goods. Exports are exempt from VAT. However, to qualify as VAT-free, exports must be supported by customs documents that prove that the goods have left Colombia. The exporter must file a declaration to the tax authorities (DEX) and be registered as an exporter with the Ministry of Foreign Trade (Mincomex). In Colombia, sales of goods required for the normal development of the businesses of

operators or industrial users located in free-trade zones and sales to International Commercialization Companies are considered to be exports if the goods are effectively supplied to the purchaser. Consequently, these transactions are also exempt from VAT.

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

## J. VAT returns and payment

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

Liabilities shown in returns must be paid in Colombian pesos.

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

If the taxable person is not required to pay any VAT, the penalty for each month of delay (or part of a calendar month) equals 0.5% of the gross income received by the taxpayer, up to a maximum of 5% of such income, or twice the credit balance in favor of the taxpayer in the return period. The maximum penalty is 5% of gross income or two times the credit balance (if any) or, if no credit balance exists, US\$33,156 (for 2011). If the taxpayer does not have any income during the period, the penalty per month (or part of a month) equals 1% of net equity for the preceding year. The maximum penalty is the lower of 10% of the taxpayer's net equity for the preceding year and twice the credit balance (if any) or, if no credit balance exists, US\$33,156. The minimum penalty is US\$133.

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

The interest rate charged on late payments of VAT is determined every three months, by a national decree. The current rate established by the government is 27.95% annually.

The Criminal Code includes penalties for the omission of tax liabilities. A taxpayer or tax withholder that does not pay collected VAT amounts within the two months after the due date may be punished with imprisonment for a term of between three and six years, and payment of a penalty equal to twice the amount of unpaid VAT, up to a maximum of US\$13,588,390.50 for 2011.

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## Costa Rica

(Country code 506)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Impuesto General sobre las Ventas
Date introduced	8 November 1982
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.hacienda.go.cr/tributacion">http://www.hacienda.go.cr/tributacion</a> )
VAT rates	
Standard	13%
Reduced	5%/10%
Other	Exempt and zero-rated
VAT number format	Corporate or individual identification number
VAT return period	Monthly
Thresholds	
Registration	None (a simplified VAT regime applies to small taxpayers; see Section C)
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- All types of transfers of goods and the rendering of certain services in Costa Rica by taxable persons
- Self-consumption
- The importation of goods into Costa Rica, regardless of the status of the importer

### C. Who is liable

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

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

**Small taxpayers.** A simplified VAT regime applies to small taxpayers. The simplified regime applies to individuals who carry out a limited range of activities, such as small retail activities, including operating a grocery store or mini-market. To qualify as a small taxpayer, the entrepreneur's annual purchases may not exceed ₡47,430,000 (approximately US\$91,275) and the entrepreneur may not have more than five employees. Under the simplified regime, presumed taxable turnover is calculated by applying an estimated profitability factor that is determined based on the taxpayer's business sector. The VAT rate is applied to the presumed taxable turnover and the small taxpayer pays VAT on that base.

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

**Nonestablished businesses.** A "nonestablished business" is a business that has no fixed establishment in Costa Rica. In principle, a nonestablished business must register for VAT if it supplies goods or services in Costa Rica.

**Late-registration penalties.** A taxpayer that fails to register for VAT on a timely basis cannot offset VAT credits generated from purchases that at the time of registration are included in inventory.

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

### D. VAT rates

In Costa Rica, the standard rate of VAT is 13%. The standard rate applies to the supply of all goods and to taxable services, unless a specific measure provides for an exemption. Supplies of wood are subject to a 10% rate, and the residential supply of electricity is subject to a 5% rate.

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

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

#### Examples of exempt supplies of goods and services

Goods that form part of the "average weekly shopping" (a list of items considered essential for the traditional household)

Veterinarian and agricultural products including livestock

Coffins

Domestic monthly consumption of electricity not exceeding 250 kw/h

Tires for farm machinery

Medicines

Books, musical compositions and paintings created in Costa Rica

Exported goods

Reimportation of national goods within three years of their export

### **E. Time of supply**

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

**Goods.** The time of supply for the sale of goods is the earlier of the delivery of the goods or the issuance of an invoice.

**Services.** The time of supply for services is the earlier of when the services are performed or an invoice is issued.

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

### **F. Recovery of VAT by taxable persons**

A taxpayer may offset input tax, which is VAT paid on the purchase of goods and services used to generate other goods and services subject to tax. Input tax is generally credited against output tax, which is VAT charged or collected on the sale of goods or the rendering of services. An input tax credit may be taken in the month of the import or the acquisition of goods and services. Taxpayers receive a tax credit or deduction for tax paid with respect to the following:

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

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

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

**Refunds.** If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxpayer obtains an input VAT credit. The input VAT credit may be carried forward to offset output tax in the following months. Under special circumstances, if the taxpayer foresees that VAT credits will not be used within the following three months, the taxpayer may request to use the credits to offset other tax liabilities.

## G. Recovery of VAT by nonestablished businesses

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

## H. Invoicing

**VAT invoices and credit notes.** A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made. Invoices must be authorized by the tax authorities. The tax authorities may authorize the use of cash registers and other computerized systems to issue invoices. Invoices must include an official invoice number and the taxpayer's identification number, and it must also show the VAT amount separately, among other requirements.

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

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

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

**Foreign-currency invoices.** In general, VAT invoices must be issued in colons (¢). However, invoices may be issued in U.S dollars (\$) if the amount in colons is also stated. The applicable exchange rate is the exchange rate on the date of issuance of the invoice, as established by the Costa Rican Central Bank.

## I. VAT returns and payment

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

VAT returns for small taxpayers must be submitted quarterly by the 15th day of the month following the end of the return period. The relevant months are October, January, April, and July. Payment in full is due on the same date. A return must be filed even if no VAT is due for the period.

Tax due must be paid in Costa Rican colons.

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

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

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

**Tax evasion.** Tax evasion that does not constitute tax fraud is deemed to occur if the taxpayer files an inaccurate return that results in the underpayment of VAT. The penalty for tax evasion ranges from 25% to 75% of the VAT amount due.

**Violation of formal duties.** A failure to file and satisfy reporting obligations in Costa Rica by taxpayers, representatives and third parties is subject to a penalty of half a base salary to three base salaries (the current monthly base salary is approximately US\$693).

Such penalties apply to the following:

- Failure to maintain accounting books or records required by law
- Not registering with the relevant tax authorities
- Refusing to provide information to tax authorities
- Failure to file tax returns

**Tax fraud.** Tax fraud occurs when information has been altered in a manner that causes the tax authorities to incorrectly compute the amount of tax due. VAT fraud that results in an underpayment of VAT greater than 200 times the monthly Costa Rican base salary is punishable by a term of imprisonment of from 5 to 10 years.

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## Croatia

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*It is anticipated that Croatia will join the European Union (EU) on 1 July 2013. As a result, significant changes to the Croatian value-added tax (VAT) law are expected to enter into force in the near future. Because of these expected changes, readers should obtain updated information before engaging in transactions.*

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Porez na dodanu vrijednost (PDV)
Date introduced	1 January 1998
European Union (EU) member state	No (anticipated date of joining the EU is 1 July 2013)



Administered by	Ministry of Finance ( <a href="http://www.porezna-uprava.hr">http://www.porezna-uprava.hr</a> )
VAT rates	
Standard	23%
Reduced	10%
Other	Zero-rated and exempt
VAT number format	Eleven-digit personal identification number (OIB)
VAT return periods	
Businesses established in Croatia	Monthly or quarterly, and annually
Businesses not established in Croatia	Monthly or quarterly, and annually
Thresholds	
Registration	
Businesses established in Croatia	HRK 85,000 (approximately €11,500) of taxable supplies in the preceding calendar year
Businesses not established in Croatia	None
Distance selling	Not applicable
Recovery of VAT by nonestablished businesses	Yes (reciprocity required)

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services in Croatia for consideration by a taxable person, performed in the course of the person's business activity, and supplies made in accordance with the provisions of the law or decisions of state bodies
- Free-of-charge supply of goods that are part of the taxable person's business (that is, the withdrawal of goods by a taxable person or its employees for private or other purposes)
- Import of goods into Croatia
- Reverse (self)-charged services received by a taxable person in Croatia

## C. Who is liable

**Taxable person.** A taxable person is any legal person or individual who performs its business activity with the purpose of realizing income, including the following:

- Entrepreneurs making supplies of goods and services
- Importers
- Entrepreneurs that do not have a registered seat, branch or place of residence in Croatia but make supplies of goods or services in Croatia (foreign entrepreneurs)

A taxable person must register for VAT purposes in Croatia if its taxable supplies in the preceding calendar year exceeded HRK 85,000 (approximately €11,500). A taxable person whose taxable supplies exceeded the prescribed threshold is considered to be a VAT payer as of 1 January of the following year and must

inform the tax authorities by submitting an application for VAT registration by 15 January of such year.

A taxable person may voluntarily register for VAT when beginning business activities or may register by the end of the year for the following year. In the case of voluntary registration, the entrepreneur must remain a VAT payer for a period of five years.

**Group registration.** VAT group registration is not allowed under the Croatian VAT law.

**Nonestablished businesses.** A “nonestablished business” is a business that makes supplies of goods or services in Croatia but does not have a registered seat, branch or place of residence in Croatia. Nonestablished businesses making supplies of goods and services in Croatia must register for VAT in Croatia and are liable to charge VAT on these supplies. If they provide only services in Croatia that are subject to reverse-charge mechanism (see *Reverse charge*) and if a Croatian recipient of the service is available to self-charge and pay Croatian VAT, registration is not required. Nonestablished businesses must register eight days before the performance of their business activities.

**Tax representatives.** A foreign entrepreneur (taxable person) must appoint a tax representative in Croatia. A tax representative must be registered in Croatia as a taxable person and cannot be a branch or a business unit of a foreign legal entity. A foreign entrepreneur must authorize its tax representative to receive all writings, submit VAT returns and perform all activities with respect to the registration and payment of VAT on behalf of a foreign entrepreneur. The tax representative is jointly liable for the calculation and payment of VAT of the foreign entrepreneur.

**Reverse charge.** A reverse-charge mechanism (that is, a self-charge mechanism) applies to the supply of services performed by non-established businesses to Croatian entrepreneurs (for example, services taxable at the place of the service recipient). The recipient of the service accounts for VAT using the appropriate VAT rate. If the self-charge mechanism applies, the nonestablished supplier is not required to register for VAT in Croatia. The taxable person who calculates and pays VAT under the self-charge mechanism can deduct input VAT only after payment of VAT (provided other conditions for input VAT deduction are met).

Services to which the self-charge mechanism applies include, but are not limited to, the following:

- Real estate services (if the real estate is located in Croatia)
- Transport services for a route in Croatia
- Cultural, artistic, scientific, educational, sporting, entertainment or similar services
- Ancillary transport services
- Valuations of movable tangible property or work on such property
- Promotional services
- Banking and financial services
- Cession of employees (hiring out of employees to other employers)
- Telecommunication services

**Late-registration penalties.** No specific late-registration penalties are prescribed in Croatia. A penalty for a late filing or failure to file a VAT return may be imposed (see Section I).

## D. VAT rates

The term “taxable supply” refers to supplies of goods and services that are liable to any of the VAT rates including the zero rate. The term “exempt supply” refers to all supplies of goods and services that are not liable to VAT. Exempt supplies do not give rise to the right of input VAT deduction. However, certain exempt supplies give rise to the right to deduct input VAT, such as exports of goods that leave the customs territory of Croatia. For such supplies, VAT is chargeable but the supplier may recover the input VAT paid on purchases related to the supplies.

The following are the VAT rates in Croatia:

- Standard rate: 23%
- Reduced rates: 10% and 0%

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Hospital services and health care services  
 Financial services  
 Insurance transactions  
 Cultural services  
 Educational services  
 Universal postal services

### **Examples of goods and services taxable at 0%**

All types of bread  
 All types of milk  
 Books containing professional, scientific, artistic, cultural and educational content  
 Drugs included in the special list of the Health Insurance Fund  
 Medical products, implants and other orthopedic devices  
 Scientific magazines  
 Public displays of movies

### **Examples of goods and services taxable at 10%**

Accommodation services and related agency services  
 Daily and periodical newspapers and magazines, except those that solely or mainly contain advertisements

## E. Time of supply

The time when VAT becomes due is called the “chargeable event” or “tax point.” Under the general rules in Croatia for determining the chargeable event, if no invoice is issued, VAT is due on the last day of the accounting period (month or quarter) in which goods are delivered or services performed.

**Continuous supply of services.** If a supply of services is performed continuously through two accounting periods, VAT liability arises at the end of the second accounting period. However, if the supply of services is performed continuously through more than two accounting periods, VAT liability arises at the end of each accounting period, regardless of whether an invoice is issued.

**Prepayments.** If a payment is made before the supply (prepayment), VAT is due at the end of the accounting period in which the prepayment is received. A regular VAT invoice must be issued for a prepayment received. After the supply is performed, the prepayment invoice needs to be cancelled and a new invoice for the performed supply must be issued.

**Imported goods.** VAT on imports is due on the day on which the customs debt arises. If during the import of goods, the customs debt does not arise, VAT is due on the day on which the customs debt would arise if it were payable. VAT on imports is calculated and charged by the customs office at the customs clearance.

**Cash accounting.** Domestic entrepreneurs registered as personal income taxpayers (income from self-employment), charge and pay VAT on a cash basis; that is, on the basis of payments received for their supplies of goods and services. A taxable person who uses the cash accounting scheme may deduct input VAT on its purchases only when the VAT is paid and other conditions for input VAT deduction are met.

**Margin taxation.** For supplies of second-hand goods, works of art, antiques and collectors' items performed by dealers, the margin scheme may be applied. This scheme may be applied only if goods are supplied to dealers by non-VAT payers, VAT payers making exempt supplies or other dealers applying the margin scheme. The dealers' VAT base is limited to their taxable margin, which is equal to the difference between the selling price and purchase price of the goods, less the amount of VAT due by the dealer from the margin.

## **F. Recovery of VAT by taxable persons**

A taxable person may recover input VAT, which is the VAT charged on goods and services supplied to the taxable person for its business purposes. A taxable person generally recovers input VAT by deducting it from output VAT, which is VAT charged on supplies made. Input VAT includes VAT charged on goods and services supplied in Croatia, VAT paid on imports and VAT payable under the self-charge mechanism.

Input VAT may be deducted if the following conditions are met:

- The invoice contains all elements prescribed by the VAT law.
- The supply is made by another VAT payer.
- The right to deduct input VAT is not excluded by specific provisions of the VAT law.
- Supply is made to a taxable person for its business purposes.

Input VAT on imports may be deducted if VAT is paid at the time of import and if the goods have been imported to Croatia for the taxable person's business purposes.

Input VAT payable under the self-charge mechanism is deductible if the general conditions for input VAT deduction are met. In

addition to the general requirements, the following conditions must be satisfied:

- An invoice must be received from the foreign entrepreneur.
- The VAT must be paid on the prescribed account with the Croatian tax authorities.
- The taxable person states the amount of VAT on the invoice received from the foreign entrepreneur.

Input VAT can be recovered in the period in which both the supply and invoice have been received.

**Nondeductible input tax.** A taxable person cannot deduct input VAT contained in invoices with respect to the following supplies:

- Supplies exempt from VAT in Croatia
- Supplies performed abroad that would have been exempt from VAT if they had been performed in Croatia
- Free-of-charge supplies that would be exempt from VAT

Input VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for the private use of entrepreneurs).

The following tables provide examples of items of expenditure for which input VAT is not deductible and examples of items for which input VAT is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input VAT is nondeductible**

70% of entertainment costs (costs connected to the entertainment of business partners, sports, leisure and gifts exceeding HRK 80 [approximately €10] provided on an occasional basis and not to the same persons)

30% of costs connected to the purchase, import or lease of vehicles for personal transportation (also includes costs of fuel, oil and maintenance of vehicles)

Cars with a purchase value of higher than HRK 400,000 (€54,400)

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

Advertising

Purchase, lease, fuel and maintenance of test vehicles, taxis and rental vehicles

Telephones

Books and newspapers

Attendance at seminars and training courses (except food and drinks)

Business gifts up to HRK 80

Hotel accommodations

**Partial exemption.** If an entrepreneur uses goods and services in its business activity for which an input VAT deduction is allowed and also uses them with respect to the supply of goods and services for which input VAT deduction is not allowed, the amount of VAT must be divided between deductible input VAT and nondeductible input VAT.

To determine the amount of input VAT that may be recovered, one of the following methods may be used:

- The input VAT may be determined based on accounting and other documentation that relates to taxable and exempt supplies.
- If the taxable person cannot determine the amount of input VAT as described above, a pro rata method can be used to determine the amount of deductible input VAT. Under the pro rata method, the total annual supplies (exclusive of VAT) for which input VAT is deductible is divided by total annual supplies, including supplies for which VAT is not deductible.
- The amount of deductible input VAT may be determined separately for each business segment of the taxable person. The taxable person must maintain separate accounting records for each business segment. The taxable person must notify the tax authorities 15 days before the commencement of the accounting period in which such approach will be used.

If a taxable person performing both taxable and exempt supplies of goods and services determines under the pro rata method that it has the right to deduct 98% or more of input VAT, it is entitled to a 100% input VAT deduction.

**Capital goods.** Capital goods are goods classified according to accounting standards as long-term assets. Input VAT is deducted in the year in which the goods are acquired or produced. Input VAT on the purchase, import or lease of vehicles for personal transportation is 70% deductible.

If the conditions applicable to the deduction of input VAT change within a five-year period beginning with the year in which the goods begin to be used, the amount of input VAT is corrected in the period after the change. For real estate, an adjustment period of 10 years applies.

**Refunds.** If the amount of input VAT recoverable in a tax period exceeds the amount of output VAT payable in that same period, the taxable person has an input VAT credit. An input VAT credit may be carried forward to the following tax period and used as a payment for future VAT liabilities or may be claimed as a VAT refund. A taxable person is entitled to a VAT refund on request within 30 days after submitting a VAT return.

**Repayment interest.** The tax authorities must pay interest on delayed repayments of VAT. The annual interest rate is 12%.

## G. Recovery of VAT by nonestablished businesses

Foreign entrepreneurs that do not have a permanent residence, place of management, branch or other business unit and that do not perform supplies of goods and services in Croatia are entitled to a refund of VAT charged by taxable persons in Croatia for the supply of movable goods and services, subject to reciprocity.

**Refund application.** A request for a VAT refund must be submitted to the Ministry of Finance at the Tax Office in Zagreb by 30 June of the year following the calendar year in which the VAT refund was incurred. The following is the address of the Tax Office:

Avenija Dubrovnik 32  
10000 Zagreb, Croatia

A foreign entrepreneur must submit the following documents with its request for a VAT refund:

- Confirmation of its tax status issued by its domestic tax office
- Original invoices relating to the refund that is claimed

The confirmation of the tax status of the foreign entrepreneur must not be older than six months and must contain at a minimum the following items:

- Name and address of the tax office where the foreign entrepreneur is registered as a VAT payer
- Name of the foreign entrepreneur, its business activity and the address of its residence or seat
- Statement that the foreign entrepreneur is registered with the VAT registry for the period of refund
- Date of issuance of the confirmation
- Stamp and signature

A request for a refund may be submitted by the tax representative of the foreign entrepreneur. If the request for refund is filed by the tax representative, the power of attorney of the tax representative must also be submitted. A tax representative of the foreign entrepreneur must be a domestic taxable person.

When processing the request for a VAT refund, the tax authorities issue a personal identification number (Osobni identifikacijski broj, or OIB) for the foreign entrepreneur that must be stated on the request for a VAT refund. The minimum claim period is three consecutive months, while the maximum period is one year. The claim period may be less than three months if it relates to a period covering the end of the calendar year (for example, November and December). The minimum amount of a VAT refund is HRK 1,000 (approximately €130).

The tax authorities must issue an assessment within six months after the date of the request for a VAT refund and must refund the requested amount of VAT to the foreign entrepreneur's current account located at a Croatian bank. The foreign entrepreneur or its tax representative must indicate its local current account in its request for a VAT refund.

## H. Invoicing

**VAT invoices.** Registered VAT payers must issue VAT invoices for all taxable supplies made and comply with the VAT invoicing requirements imposed by the VAT law. The amount of VAT must be stated separately on the invoice. For VAT-exempt supplies of goods and services, the invoice must clearly state that VAT is not charged in accordance with the specific provision of the VAT prescribing the exemption.

The VAT law also prescribes the minimum elements for invoices for cash payments (receipts) and cash register slips. Effective from 1 August 2011, invoices can be issued in electronic form. An invoice in electronic form is considered to be an invoice issued as an electronic document in compliance with the Electronic Documents Act and the Electronic Signature Act. An electronic invoice is also considered to be the invoice sent by Electronic Data Interchange (EDI). The recipient of an electronic invoice must provide consent to receive such invoices.

The invoices issued by VAT payers whose profits are subject to corporate income tax need to be marked as "R-1." VAT payers

that charge and pay VAT on a cash basis must issue invoices marked as “R-2.”

**Credit notes.** If the tax base subsequently changes as a result of subsequent discounts, rebates, a recipient’s inability to pay or returns of goods, the taxable person must correct its VAT base and amount of VAT payable. This can be done through the issuance of a credit note. The taxable person may adjust (correct) its VAT base and VAT liability only on obtaining a written notification from the recipient of the supply that it corrected its input VAT. A credit note must contain all of the elements of a regular invoice and a reference to the original invoice.

**Proof of exports.** Exports of goods from Croatia including transport and all other forwarding services related to the exportation of the goods are VAT-exempt in Croatia. For export transactions to be qualified as VAT-exempt, an entrepreneur must possess evidence that the export took place. Acceptable evidence includes a customs declaration verified by the customs office indicating that the export customs clearance has been performed and that the goods have left the territory of Croatia.

**Foreign-currency invoices.** In general, invoices are issued in Croatian currency (kuna, or HRK). However, the VAT law does not restrict the use of foreign currency in the invoice. The exchange rate used is the foreign exchange rate published by the Croatian National Bank that is valid on the date of issuance of the invoice.

## I. VAT returns and payment

**VAT returns.** Croatian VAT returns are submitted for monthly or quarterly and annual tax periods. Quarterly tax periods coincide with the months of March, June, September and December. The tax period for a taxable person is determined on the basis of its turnover in the preceding calendar year in accordance with the following rules:

- Taxable persons with turnover up to HRK 300,000 (approximately €41,000) submit quarterly tax returns.
- Taxable persons with turnover greater than HRK 300,000 (approximately €41,000) submit monthly tax returns.

A tax period for newly established taxable persons (established during the calendar year) is a monthly or quarterly tax period based on the estimated supplies reported in the VAT registration form.

VAT returns must be submitted and any VAT due must be paid in full by the last working day of the month following the end of each tax period.

Taxable persons must also submit an annual VAT return. The annual VAT return is used for reconciliation purposes and must be submitted to the tax authorities at the Tax Office for the taxable persons’ registered seat by the following dates:

- The end of April for taxable persons subject to corporate income tax
- The end of February for taxable persons subject to personal income tax (income from self-employment)

**Penalties.** Penalties are imposed for a range of VAT offenses. The following are the penalties:



- Late filing of or failure to file a VAT return: a penalty ranging from HRK 1,000 (approximately €130) to HRK 200,000 (approximately €27,000)
- Late payment or nonpayment of VAT: a penalty ranging from HRK 2,000 (approximately €270) to HRK 500,000 (approximately €68,000)
- An offense committed by a responsible person of a taxable entity: a fine ranging from HRK 500 (approximately €70) to HRK 20,000 (approximately €2,700)

**Interest.** For late payment of VAT, penalty interest at an annual rate of 12% is imposed.

**Criminal offenses.** The criminal offense of tax evasion in an amount higher than HRK 10,000 (approximately €1,350), is punishable by a term of imprisonment ranging from 6 months to 5 years. However, if the criminal offense causes great damage, the term of imprisonment may range from 3 years to 10 years.

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## Curaçao

(Country code 599)

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*Effective from 10 October 2010, the Netherlands Antilles consisting of five territories in the Caribbean Sea (Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten) was dissolved. Curaçao and Sint Maarten became autonomous countries within the Kingdom of the Netherlands. Curaçao has its own laws and regulations. In principle, these laws and regulations currently do not differ from the former Netherlands Antilles laws and regulations. However, a different indirect tax system applies in Sint Maarten. Bonaire, Saba and Sint Eustatius (the BES-Islands) are now extraordinary overseas municipalities of the Netherlands, but they have their own tax system including a simplified general expenditure tax regulation. The following chapter provides information on taxation in Curaçao only.*

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### A. At a glance

Name of the tax	Turnover tax (TOT)
Local name	Omzetbelasting
Date introduced	1 March 1999
European Union (EU) member state	No

Rates	
Standard	6%
Other	Special rate for insurance through brokers
TOT number format	1XX.XXX.XXX (9 digits)
TOT return periods	Monthly (quarterly or annually on request)
Thresholds	None
Recovery of TOT by nonestablished businesses	No

## B. Scope of the tax

TOT applies to the following transactions:

- The delivery of goods or services by a taxable entrepreneur as part of its business in Curaçao
- The import of goods into Curaçao

## C. Who is liable

In principle, a taxable entrepreneur is a business entity or individual who delivers goods or performs services (tax activities) in Curaçao. This includes a representative that supplies services on behalf of a nonresident business. Effective from 1 January 2012, the definition of an entrepreneur is broadened to include an entity or individual who manages an asset to obtain revenue from the asset on a permanent basis. For example, any form of leasing real estate located in Curaçao is subject to TOT, unless an exemption applies. TOT is not due for certain services provided by an entrepreneur established in Curaçao to a nonresident person or business if these services are not enjoyed in Curaçao.

Before the amendments of TOT (that is, before 1 January 2012), for services provided in Curaçao by “nonestablished businesses,” a reverse-charge mechanism applied and the business receiving the service was liable for TOT if the services were actually performed in Curaçao. However, effective from 1 January 2012, for TOT purposes, the place of services provided by “nonestablished businesses” is no longer the place where the services are actually performed, but the place where the services are enjoyed. The businesses enjoying the services in Curaçao provided by “nonestablished businesses” are liable for TOT. For these services, the businesses for which the services are performed must report and pay TOT.

In general, a taxable entrepreneur that begins taxable activities must notify the tax authorities of its liability to register.

Special rules apply to “nonestablished businesses,” small enterprises, cultural organizations, gambling companies, E-zone companies, offshore companies and offshore banks and entities that have a foreign-exchange license.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Curaçao. A nonestablished business may become liable for TOT and accordingly subject to registration if a permanent establishment is deemed to exist in Curaçao. The TOT law does not provide a definition of a permanent establishment.

**Small enterprises.** A small enterprise is a resident individual who has a business or permanent establishment in Curaçao and who had turnover (excluding TOT) in the preceding calendar year of ANG 30,000 or less. If a request is filed with the tax authorities and it is granted, a small enterprise is not liable for TOT. However, the small enterprise must still submit TOT returns for monthly periods. Social or cultural organizations may also be exempted from TOT.

Effective from 1 January 2012, the small-enterprises arrangement mentioned above does not apply to entrepreneurs who manage real estate to obtain revenue from the real estate on a permanent basis.

**Exploitation of gambling.** In specific cases involving the exploitation of “gambling,” the exploiter is liable for TOT. The term “gambling” refers to the participation in lottery and bingo games. If the exploiter is a nonestablished business, the organizer or the contract arranger of the gambling games is liable for TOT.

**E-zone companies.** E-zone companies are not liable for TOT on their supplies of services or goods to nonresidents.

**Offshore companies and offshore banks.** Offshore companies and offshore banks that have a foreign-exchange license are generally not liable for TOT on their offshore activities. The offshore regime is grandfathered up to and including 2019.

**Entities with a foreign-exchange license.** Effective from 1 January 2012, services provided by entities that have a foreign-exchange license are not subject to TOT if these entities perform business activities for customers outside Curaçao.

**Group registration.** TOT grouping is not allowed under the TOT legislation. Legal business entities that are closely connected must register for TOT individually.

**Late-registration penalties.** No specific penalty is imposed for late registration. However, if the late registration results in the late payment of TOT or the late submission of TOT returns, penalties may be imposed (see Section I).

## D. TOT rates

The term “taxable supply” refers to a supply of goods and services that is liable for TOT. The term “exempt supply” refers to a supply of goods and services that is not liable for TOT.

In Curaçao, a special rate applies to the supply of insurance through a broker. The 6% standard rate applies to all other supplies of goods or services, unless a specific measure provides for an exemption.

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

### Examples of exempt supplies of goods and services

- Medical services
- Water and electricity services
- Transportation services
- Betting and gaming (casinos)

Services to an E-zone entity

Postal services

Services and goods to an oil refinery

Effective from 1 January 2012, an exemption from TOT is introduced for the lease of real estate that is equipped and designated for permanent residence. The exemption applies to lease income from residences that are primarily and permanently used by individual residents of Curaçao.

**Exports.** Exports of goods are exempt from TOT. However, to qualify for a TOT exemption, evidence must confirm that the goods have left Curaçao.

### **E. Time of supply**

The time when TOT becomes due is called the “time of supply.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the services are performed.

In Curaçao, an invoice must be issued by the 15th day of the month following the month in which the supply takes place. The actual time of supply becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due, at the latest, on the day on which the invoice should have been issued.

### **F. Recovery of TOT**

In principle, the recovery of TOT by taxable entrepreneurs is not allowed in Curaçao. However, TOT recovery can be requested with respect to the TOT payable at the moment of sale of goods for the following:

- TOT paid by the selling entrepreneur on the import of a commodity
- TOT paid on the import of raw materials, semifinished products and packing materials used for exported goods produced by the importing entrepreneur

For purposes of the above rule, commodities are stocks of goods purchased for resale.

The TOT paid on imports is recovered by deducting it against TOT due in the TOT return for each TOT period. If the input tax exceeds TOT due in a period, the excess may be carried forward to the following TOT period and subsequent periods.

### **G. Recovery of TOT by nonestablished businesses**

Nonestablished businesses may not recover TOT in Curaçao.

### **H. Invoicing**

A taxable person must provide an invoice for all taxable supplies made, including exports. Some exemptions to this obligation are provided.

Taxable entrepreneurs must retain a copy of their invoices for 10 years.

A TOT credit note must be issued if the quantity or consideration shown on an invoice is altered. Credit notes must contain broadly the same information as the original invoices.

## I. TOT returns and payment

**TOT returns.** TOT returns are generally submitted for monthly periods. However, on request of a taxable person, the tax authorities may allow returns for quarterly or annual periods if they consider it appropriate. Returns must be filed and TOT due must be paid by the 15th day of the month following the end of the reporting period. The TOT due for the period must be remitted together with the return.

**Penalties.** TOT penalties are assessed for the late submission of a TOT return or for the late payment of TOT, in the following amounts:

- For the late submission of a TOT return, the maximum fine is ANG 2,500.
- For the late payment of TOT, the fine can vary between 5% and 15% of the amount of the additional assessment, with a maximum of ANG 10,000.
- If the late payment is caused by negligence or dishonest conduct, fines ranging from 25% to 100% of the TOT payable may be imposed.

Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct.

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## Cyprus

(Country code 357)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 July 1992
European Union (EU) member state	Yes (effective from 1 May 2004)

Administered by	The VAT Service (customs and excise) ( <a href="http://www.mof.gov.cy/mof/customs/VAT.nsf">http://www.mof.gov.cy/mof/customs/VAT.nsf</a> )
VAT rates	
Standard	15% (see Section D)
Reduced	5%/8%
Other	Zero-rated and exempt
VAT number format	12345678X
VAT return periods	Quarterly
Thresholds	
Registration	€15,600 (in a 12-month period)
Distance selling	€35,000 (annually)
Intra-Community acquisitions (for INTRASTAT)	€85,000 (as of 1 January 2011)
Intra-Community supplies (for INTRASTAT)	€55,000 (as of 1 January 2011)
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Cyprus by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in Cyprus
- The importation of goods from outside the EU, regardless of the status of the importer

Special rules apply to intra-Community transactions involving new means of transport and distance sales (see the chapter on the EU, page 208).

## C. Who is liable

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

A person making taxable supplies must register at the end of a month if the value of taxable supplies in the year ended on the last day of that month exceeds €15,600. A person exceeding this threshold must notify the VAT Commissioner by submitting Form VAT 101 to the local VAT office within 30 days after the end of the relevant month. Registration is effective from the end of the month following the relevant month or from such earlier date as may be agreed.

If a person makes a supply of services to a taxable person in another EU member state and if such services are taxable where the recipient of the services is established, the person making the supply must register from the date of making the supply. A person making such supply must notify the VAT Commissioner by submitting Form VAT 101 to the local VAT office within 30 days

after the creation of the obligation. Registration is effective as of the date of the creation of the obligation.

A person must also register if reasonable grounds exist for believing that taxable supplies in the next 30 days will exceed €15,600. The taxable person must submit Form VAT 101 to the local VAT office within the 30 days and registration is effective from the beginning of that 30-day period.

Special rules apply to foreign or “nonestablished businesses.”

**Group registration.** VAT grouping is possible for two or more companies registered in Cyprus. The following are the principal aspects of grouping:

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

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

Consequently, a nonestablished business must register for Cypriot VAT if it makes any of the following supplies:

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

**Tax representatives.** The VAT authorities may direct any taxable person that does not have any business establishment, fixed establishment, or usual place of residence within the EU to appoint a VAT representative to act on its behalf with respect to VAT. This representative is personally liable for any VAT that is not paid.

If the taxable person fails to appoint a VAT representative, the VAT Commissioner may require the taxable person to provide adequate security for the payment of any VAT which is or may become due.

**Late-registration penalties.** A penalty is applied to late registration, assessed at €85 for each month that the failure to register continues. Interest is charged at the rate of 5% annually on the amount of outstanding VAT.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the EU and related services and intra-Community supplies of goods and intangible services supplied to another taxable person established in the EU or to recipients outside the EU (see the chapter on the EU, page 208).

The following are the VAT rates in Cyprus:

- Standard rate: 15% (at the time of writing, the House of Representatives was expected to approve an increase in the standard rate from 15% to 17% before the end of 2011)
- Reduced rates: 5% and 8%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the reduced rates of 5%, 8% and 0% (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

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

### **Examples of goods and services taxable at 5%**

Services provided by undertakers  
Services of writers and composers  
Refuse collection  
Waste treatment  
Road cleaning  
Fertilizers  
Animal feeding stuffs  
Liquefied petroleum gas  
Various goods for incapacitated persons  
Fares for rural and urban areas  
Newspapers, books, magazines and similar items  
Ice cream, chips and salted nuts  
Water  
Medicines  
Food (except supplied in the course of catering)  
Purchase or construction of a house or flat to be used as a private main residence (as of 1 October 2011)



**Examples of goods and services taxable at 8%**

Restaurant services (excluding the supply of alcoholic drinks)

Transportation of passengers and their luggage by taxi

Accommodation provided by hotels and other similar establishments, including the provision of holiday accommodation

A combined provision of services that includes accommodation provided by hotels and other similar establishments and the provision of breakfast and/or half-board and/or full board, and/or a combined service that includes, in addition to accommodation, the provision of other catering facilities, such as alcoholic drinks, beer and wine

**Examples of goods and services taxable at 0%**

Supply, lease and repair of seagoing vehicles and aircraft and related services

International transport of persons

**E. Time of supply**

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

**Goods.** For a supply of goods, the tax point is the earliest of the following:

- The date of delivery of goods
- The date of issuance of the invoice
- The date of payment

**Services.** For a supply of services, the tax point is the earliest of the following:

- The date of completion or performance of the services
- The date of issuance of the invoice
- The date of payment

**Additional time of supply rules.** If an invoice is issued within 14 days after the date of delivery of the goods or the performance of the services, the tax point is the invoice date, unless this date is overridden by the date of an earlier payment. The period of 14 days may be extended with the approval of the VAT authorities.

**Intra-Community acquisitions.** For an intra-Community acquisition of goods, the tax point is the earliest of the following:

- The 15th day of the month following the month in which the goods are sent
- The date of issuance of the invoice by the supplier

**Intra-Community supplies.** For an intra-Community supply of goods, the tax point is the earliest of the following:

- The 15th day of the month following the month in which the supplier sent the goods or the recipient receives them in order to transfer them outside Cyprus
- The date of the issuance of the invoice by the supplier

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

**F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax

is generally recovered by deduction from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Cyprus, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse-charge services (see the chapter on the EU, page 208).

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

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

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

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

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

Purchase, hire, lease and maintenance for vans and trucks  
Fuel  
Parking costs  
Attending conferences, seminars and training courses  
Business gifts (if valued at more than €17.09, output VAT is due)  
Business use of home telephone  
Mobile phones (the invoices must be issued in the name of the business)  
Advertising

**Noneconomic activities.** Effective from 1 January 2010, a taxable person who is engaged in noneconomic activities, such as holding activities, may not deduct input VAT on local and reverse-charge expenses that are directly related to noneconomic activities.

A taxable person that carries out both economic and noneconomic activities and that purchases local and reverse-charge services relating both to its economic and noneconomic activities must apply a reasonable basis for the apportionment of the input VAT on the general overhead expenses to economic and noneconomic activities. A taxable person may deduct the portion of input VAT based on this reasonable percentage of input VAT attributed to economic activities of the taxable person.

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

Input tax directly relating to taxable supplies is fully recoverable and input tax directly relating to exempt supplies is not recoverable. Nonattributable input tax must be apportioned. The standard method for apportioning input tax is to multiply nonattributable input tax by the ratio of the value of taxable supplies to the value of total supplies.

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

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

If a business provides services described above to customers both in the EU and outside the EU, the amount of refundable input VAT is apportioned accordingly.

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

The capital goods scheme in Cyprus applies to the following transactions:

- The acquisition of tangible fixed assets maintained and used by a business (the cost of repairs and maintenance are not included in the value of the tangible fixed assets) and intangible fixed assets such as the use of property rights, trademarks, patents and goodwill that have more than one use and a value of €17,086 or more
- The transfer of all or part of a building including the land if the transfer takes place before the first occupation
- The transfer of ownership of all or part of a building including the land under a sales or lease agreement that is transferred at the end of the agreement, if the transfer takes place before the first occupation
- The construction of buildings constructed by a taxable person on immovable property not owned by the taxable person

The input tax adjustment lasts for a period of 5 years for the capital goods except for immovable property for which the input tax adjustment lasts for a period of 10 years.

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax. The adjustment may

result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

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

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

### **G. Recovery of VAT by nonestablished businesses**

Cyprus refunds VAT incurred by businesses that are not established in Cyprus nor registered for VAT there. Nonestablished businesses may claim Cypriot VAT to the same extent as VAT-registered businesses.

For businesses established in the EU, refund is made under the terms of the EU 2008/9/EC Directive. For businesses established outside the EU, refund is made in accordance with the terms of the EU 13th Directive.

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

For the general VAT refund rules applicable to the EU 2008/9/EC Directive and 13th Directive refund schemes, see the chapter on the EU, page 208.

**Refund application.** For a person registered for VAT in an EU country, a claim for repayment must be made by 30 September of the calendar year following the refund period. To obtain a refund of Cypriot VAT, a taxable person not established in Cyprus must submit an application in electronic format in the EU member state of its establishment via the electronic portal of that member state.

If the refund application relates to a refund period of less than one calendar year but not less than three months, the minimum amount of VAT for which an application for a refund can be submitted is €400. If the refund application relates to a refund period of a calendar year or the remainder of a calendar year, the minimum amount of VAT for which an application for a refund can be submitted is €50.

For all other persons, claims with respect to VAT incurred in the one-year period from 1 July to 30 June must be made within six months of the end of that one-year period (that is, by 31 December).

Claims may be submitted in Greek. The application for refund must be accompanied by the appropriate documentation (see the chapter on the EU, page 208).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €25.63. For an annual claim, the minimum amount is €205.03.

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

Commissioner of VAT  
 VAT Headquarters  
 1471 Nicosia  
 Cyprus

## H. Invoicing

**VAT invoices and credit notes.** A Cypriot taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions valued at less than €85 (if the supply is not to a person in another EU member state), unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the EU, page 208).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. Credit notes adjusting the initial amount of VAT charged may be issued if a genuine mistake or overcharge has been made or if agreement on a discount has been reached. To be valid for VAT purposes, the credit note must be issued within one month after the date on which the mistake is discovered or the agreement on the discount is reached. It must be marked “Credit Note” and contain details of the original supply and the circumstances under which the credit is given (for example, return of faulty goods).

**Proof of exports and intra-Community supplies.** Cypriot VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Cyprus. Acceptable proof includes the following documentation:

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

**Foreign-currency invoices.** When Cypriot VAT is charged on an invoice, the invoice must be issued in euros (€), effective from 1 January 2008. If an invoice is issued in foreign currency, the amount before VAT and the VAT amount must be converted to euros using the exchange market rate or the rate issued by the Department of Customs and Excise.

## I. VAT returns and payment

**VAT returns.** Cypriot VAT returns are submitted for quarterly periods. Quarterly VAT returns must be filed by the 10th day of the second month following the end of the VAT quarter. Any VAT due must be paid by this date.

**Penalties.** A one-off penalty of €51 per VAT return is charged for the late submission of the VAT return. Late payment of outstanding VAT results in the imposition of a penalty of 10% of the outstanding amount. Interest is charged at the rate of 5% annually on the amount of VAT outstanding. The 5% interest rate applies to the late payment of VAT, late registration, and late submission of the VAT return. The interest rate does not fluctuate and is always 5%.

Penalties are also assessed for the following offenses:

- Late registration: a penalty of €85 for each month that the failure continues
- Failure to apply the reverse charge: a penalty of €85
- Failure to keep records for a prescribed period: a penalty of €341
- Issuing an unauthorized invoice: a penalty of €85
- Fraudulent evasion of VAT: up to three years' imprisonment or a fine up to three times the amount due, or both
- Receipt of goods on which VAT was evaded: up to 12 months' imprisonment or a fine of €8,543, or both
- VAT shown in assessment issued by the VAT Commissioner and not paid: up to 12 months' imprisonment or a fine of €8,543, or both

## J. EU declarations

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

The INTRASTAT thresholds for 2011 have been set at €85,000 for arrivals and €55,000 for departures. In addition, special thresholds have been set at €1,500,000 annually for arrivals and €3,500,000 for departures. Traders that make intra-Community supplies and acquisitions below these thresholds are not required to complete all the information required on the INTRASTAT return.

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

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

The VAT authorities impose a one-off penalty of €15 for each delayed form. If the return is not submitted within 30 days, the offense is treated as a "civil wrong," and in the case of conviction, a fine up to €2,562 applies.

**EU Sales Lists (VIES form).** Effective from 1 January 2010, every VAT-registered person who supplies goods and/or provides services to VAT-registered persons in other EU member states must submit a VIES form every month to the Cypriot VAT authorities.

The VIES form must be submitted electronically by the 15th day of the month following the end of the relevant month. The VIES form must be submitted even if no intra-Community supplies are made in the month.

If the VIES form is not submitted on time, a penalty of €50 is imposed per late form. If the form is not submitted for more than three months, it is treated as a civil wrong. In the case of a conviction, a penalty of an amount not exceeding €2,562 is imposed. If the VIES form contains misstatements or omissions, a penalty of €15 is imposed unless, within the two-month period after the submission of the VIES form, a revised form is submitted.

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## Czech Republic

(Country code 420)

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### Prague

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Dan z pridane hodnoty
Date introduced	1 January 1993
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	Ministry of Finance ( <a href="http://www.mfcr.cz">http://www.mfcr.cz</a> )
VAT rates	
Standard	20%
Reduced	14%
Other	Exempt and exempt with credit
VAT number format	CZ99999999, CZ999999999 or CZ9999999999
VAT return periods	Monthly (if turnover in preceding calendar year reached CZK 10 million; optional if turnover was between CZK 2 million and CZK 10 million) Quarterly (if turnover in the preceding calendar year was less than CZK 10 million or if the business is a nonestablished business)
Thresholds	
Registration	

General	CZK 1 million (for a total period of 12 consecutive calendar months)
Nonestablished businesses	No threshold
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made for consideration in the Czech Republic by a taxable person, including the transfer of real estate
- The intra-Community acquisition of goods for consideration made in the Czech Republic by a taxable person (see the chapter on the EU, page 208)
- The intra-Community acquisition of goods by a legal entity that has not been founded or established for the purpose of carrying on business activity (see the chapter on the EU, page 208)
- The acquisition of a new means of transport from another member state of the EU for consideration by a person who is not a taxable person (see the chapter on the EU, page 208)
- The importation of goods into the Czech Republic

## C. Who is liable

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

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

A taxable person that is established or has a place of business in the Czech Republic must register for VAT in any of the following circumstances:

- Its turnover in the preceding 12 consecutive calendar months exceeded CZK 1 million. A taxable person must file an application for VAT registration by the 15th day of the calendar month following the month in which the threshold was exceeded.
- It acquires goods that have a value exceeding CZK 326,000 from another EU member state in a calendar year. The taxable person must file an application for VAT registration by the 15th day following the date on which the threshold was exceeded.
- It receives a service subject to the reverse-charge mechanism (in general, see Article 44 of EU Directive 2006/112/EC) from a nonestablished business. The taxable person must file an application for VAT registration by the 15th day following the tax point of the service (see Section E).
- It receives a service according to Article 47, 48, 53, 55 or 56 of EU Directive 2006/112/EC, goods with installation, or electricity or gas from a nonestablished business, and the place of supply for such item is in the Czech Republic. The taxable person must file an application for VAT registration by the 15th day following the tax point of the supply.
- It provides an Article 44 service with a place of supply in another EU member state. The taxable person must file an



application for VAT registration by the 15th day following the tax point of the service.

- It provides a service (with the exception of an exempt-without-credit service) with a place of supply in the Czech Republic through its fixed establishment located outside the Czech Republic. The taxable person must file an application for VAT registration by the 15th day following the tax point of the service.
- It enters into an association or consortium agreement (this is an agreement, which is similar to a joint venture, based on the Czech Civil Code) or similar agreement with a Czech VAT payer. The taxable person must file an application for VAT registration by the 15th day following the conclusion of the agreement.
- It jointly makes taxable supplies on the basis of an association agreement or similar agreement with a Czech non-VAT payer and the aggregate turnover of the taxable person (both within the association and outside of it) exceeded CZK 1 million in the preceding 12 consecutive calendar months. The taxable person must file an application for the VAT registration by the 15th day of the calendar month following the month in which the threshold was exceeded.
- Certain other specified transactions occur. For example, a taxable person acquires a property from a VAT payer based on the transfer of a going concern agreement, and a taxable person becomes a successor company in a business transformation in which the dissolving company is a VAT payer.

**Voluntary registration.** A Czech business whose taxable turnover does not exceed the registration threshold may register for VAT voluntarily unless it exclusively provides supplies that are exempt from VAT without credit.

A nonestablished taxable person may register for VAT voluntarily if it will make supplies with credit in the Czech Republic.

**Group registration.** A group registration for VAT purposes is possible in the Czech Republic. Legal entities that are closely connected (through capital or management) may register as a VAT group. A VAT group is treated as a single taxable person. Only persons established in the Czech Republic may be part of a VAT group. As a result, any establishments (seat, place of business or fixed establishment) of such persons outside the Czech Republic may not be part of a VAT group. The group members share a single VAT number and submit a single VAT return.

An application for group registration must be filed before 31 October for the group registration to be effective from 1 January of the following year.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a seat, fixed establishment or place of business in the Czech Republic.

A nonestablished taxable person that does not have any fixed establishment in the Czech Republic (with the exception of a fixed establishment that makes only VAT-exempt supplies without credit) must register for VAT if any of the following circumstances exist:

- It makes a taxable supply (except for the importation of goods) or a VAT-exempt supply with credit (except for the exportation of goods, transport services directly related to the importation

or exportation of goods and exempt supplies according to Articles 148 and 151 of EU Directive 2006/112/EC), and the place of supply is in the Czech Republic.

- It creates a fixed establishment in the Czech Republic.
- It acquires goods from another EU member state.
- It engages in other specified transactions (for example, it is supplied with gold or it performs distance selling [applicable only for a person registered for VAT in another EU member state]).

The concept of a tax representative (as a person required to apply and pay VAT) was abolished, effective from 1 January 2005. Nevertheless, general rules concerning representation for tax proceedings (including the possibility of representing a person with respect to tax registration) may apply.

VAT registration applications for nonestablished businesses must be sent to the following address:

Tax Authority for Prague 1 (Financni urad pro Prahu 1)  
Stepanska 28  
112 33 Prague 1  
Czech Republic

**Reverse-charge supplies.** In general, the reverse charge applies to services (with certain exceptions) provided by a supplier not established in the Czech Republic to a Czech-established taxable person.

Certain local transactions (supplies between persons registered for Czech VAT) are subject to the reverse charge (for example, supplies of gold, waste or emission allowances). Effective from 2012, the reverse charge will also apply to local supplies of construction services.

The purchaser must self-assess output VAT at the appropriate rate (see Section D). The self-assessed tax is also treated as input tax and may be recovered (see Section F). The reverse charge does not apply to supplies made to private individuals who are not registered for VAT.

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

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

A nonestablished business may be deregistered by the tax authorities if it did not make any taxable supplies or VAT-exempt supplies with credit in the preceding calendar year.

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

A group registration may be canceled only as of 31 December. The application must be filed before 31 October of the current

year. Otherwise, the group registration will be canceled as of 31 December of the following year.

**Late registration.** If a taxable person that is established or has a place of business in the Czech Republic fails to register for VAT after exceeding the registration threshold, its tax liability is assessed by the tax authorities on a tax base equal to the total consideration for all taxable supplies made by the taxable person after exceeding the threshold.

#### **D. VAT rates**

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

The following are the VAT rates:

- Standard rate: 20%
- Reduced rate: 14%

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

The following tables provide the Czech VAT treatment applicable to a range of supplies of goods and services (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

Postal services  
 Television and radio broadcasting  
 Insurance  
 Financial services  
 Transfer of real estate  
 Education  
 Betting and gambling  
 Social welfare

##### **Examples of exempt with credit (zero-rated) supplies of goods and services**

Exports of goods  
 Intra-Community supplies of goods  
 International transportation of passengers and their luggage  
 Transport and services directly related to the importation or exportation of goods  
 Supplies of goods in a free zone or a free warehouse

##### **Examples of goods and services taxable at 14%**

Foodstuffs  
 Repairs and work on medical instruments  
 Nonalcoholic beverages

Water distribution and treatment of sewage

Public transportation

Water and air passenger transport

Services of fitness centers

Certain medical equipment and pharmaceuticals

Medical and social care (unless exempt)

Children's car safety seats and diapers

Books and magazines

Cultural and sporting activities

Funeral services

The reduced VAT rate also applies to transfers of "housing provided as part of a social policy." The term "social housing" includes apartments with a maximum floor area of 120 square meters and family houses with a maximum floor area of 350 square meters.

### **E. Time of supply**

VAT is charged at the time of the earlier of the following events (known as the tax point):

- A taxable supply is carried out.
- Payment for the supply is received.

**Goods.** A taxable supply is generally considered to be carried out on the date of supply (delivery) if the goods are delivered based on a purchase contract. Otherwise, the tax point is the date on which the goods are accepted by the customer.

**Services.** The taxable supply is generally considered to be carried out on the date on which the service is performed or the date on which the tax document is issued, whichever date is earlier.

Other tax point rules may apply to specific supplies of goods and services.

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

**Intra-Community acquisitions of goods.** VAT on intra-Community acquisitions of goods is charged at the earliest of the following dates:

- On the date of issuance of the tax document (see next paragraph)
- On the 15th day of the month following the month in which the supply takes place

In the case of an intra-Community acquisition of goods, the tax document is considered to be issued on the date when certain details (for example, the VAT rate, the amount of VAT, the date of acquisition and the date on which the missing details were filled in) are inserted by the recipient in the invoice or in the recipient's VAT records.

**Reverse-charge services.** For reverse-charge services, the tax point is the earliest of the following dates:

- The date on which the service is rendered (specific rules may apply to particular types of services)

- The last day of the month in which consideration is paid
- The last day of each calendar year if the service is being provided for more than 12 calendar months and if no consideration is paid during this period

## F. Recovery of VAT by taxable persons

A VAT payer may recover input tax, which is VAT charged on goods and services supplied to the VAT payer for business purposes. A VAT payer generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in the Czech Republic, VAT self-assessed on intra-Community acquisitions of goods and on services subject to the reverse-charge mechanism and VAT paid on imports.

VAT payers prove their entitlement to VAT deduction with valid tax documents. Input VAT on local supplies made by another Czech VAT payer may not be deducted earlier than the tax period in which the recipient obtains a valid tax document.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Business entertainment

Nonbusiness expenditure

Goods and services used exclusively for the making of VAT-exempt supplies without credit

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

Passenger car acquisition and maintenance costs

Car hire

Fuel for vehicles

Books

Conferences

Advertising

Accommodation

Mobile phones

**Partial exemption.** A Czech VAT payer is entitled to a full VAT deduction with respect to purchases used for taxable supplies (that is, supplies on which VAT is charged), certain other supplies that fall outside the scope of Czech VAT (that have a place of supply abroad) and supplies that are VAT-exempt with credit.

A VAT payer may not deduct input VAT related exclusively to the following supplies:

- Supplies that are VAT-exempt without credit

- Supplies used exclusively for nonbusiness purposes (for example, private consumption)

The VAT payer must reduce the input VAT deduction (that is, claim only a partial deduction) of input VAT with respect to supplies used for both taxable (or VAT-exempt with credit) and VAT-exempt without credit supplies.

The amount of input tax that may be recovered by the VAT payer is calculated in the following two stages:

- The first stage identifies the input VAT that may be directly allocated to VAT-exempt without credit and to taxable (or VAT-exempt with credit) supplies. Input tax directly allocated to VAT-exempt supplies without credit is not deductible. Input tax directly related to taxable supplies or VAT-exempt supplies with credit is recoverable in full.
- The second stage prorates the remaining input tax that relates to both taxable (or VAT-exempt with credit) and VAT-exempt without credit supplies to allocate a portion to taxable (or VAT-exempt with credit) supplies. For example, this treatment applies to the input tax on general business overhead. In general, the ratio is based on the value of taxable and VAT-exempt with credit supplies, compared with total turnover. If the ratio is at least 95%, full input VAT deduction may be claimed.

The input VAT deduction must be reduced proportionally if the supplies are used for both economic activities and for nonbusiness purposes (for example, private use). If the actual proportion is not clear, an estimate may be used. This estimate may be adjusted at the year-end if the estimate materially differs from the final proportion. If the input VAT deduction is claimed in full, output VAT must be applied to the nonbusiness consumption (this is not possible for capital goods).

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the tax period in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition (see *Partial exemption*). However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's partial exemption recovery percentage changes during the adjustment period or when the use of the capital goods changes. For example, a taxable person that acquired an asset and recovered VAT in full at the time of its acquisition must adjust the amount of recovery if the asset is later used for a VAT-exempt activity. In contrast, if the asset was originally acquired for a VAT-exempt activity and no input VAT was reclaimed, and the asset is later put to a fully taxable use, input tax may be recovered when the use changes.

In the Czech Republic, the capital goods adjustment applies to the following assets:

- Long-term tangible assets (with a value greater than CZK 40,000)
- Long-term intangible assets (with a value greater than CZK 60,000)
- Land (unless accounted for as merchandise)
- Technical appreciation (substantial improvement) of fixed assets

The adjustment period is generally 5 years (10 years for real estate), beginning with the calendar year of the acquisition of the asset and extending for the subsequent 4 or 9 calendar years. In the tax period of acquisition, the input VAT is deducted depending on whether and to what extent the goods are used for taxable activities (see *Partial exemption*). A portion of the total input VAT must be adjusted according to the use of the goods (VAT-exempt, nonbusiness or taxable) in that particular year.

No change needs to be made if the difference between the use in the current year and in the first year is not material (that is, the difference in use is not more than 10 percentage points).

A three-year VAT adjustment period applies to business property that does not qualify as capital goods. The input VAT claimed must be adjusted if the actual use of the respective business property differs from the purposes reflected in the original input VAT claim. Wear and tear is not taken into account.

**Refunds.** If the amount of VAT recoverable in a month exceeds the amount of VAT payable, the taxable person has a VAT credit. A refund of the VAT credit is claimed by submitting the VAT return. The Czech tax authorities generally make repayments within 30 days after the filing deadline for the return. If the VAT return is filed electronically and if the tax authorities have no doubts regarding the reported information, the refund period should be shortened to 15 days.

### G. Recovery of VAT by nonestablished businesses

The Czech VAT authorities refund VAT incurred by businesses that are neither established in the Czech Republic nor registered for VAT there. For businesses established in the EU, refund is made under the terms of EU Directive 2008/9/EC. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive.

Refunds under the 13th Directive are made on the principle of reciprocity. A nonestablished business may claim a refund if it is established in a country that refunds VAT to Czech VAT payers. Currently, Macedonia, Norway and Switzerland are the only countries that qualify under this rule.

For the general VAT refund rules under EU Directive 2008/9/EC and the 13th Directive, see the chapter on the EU, page 208.

**Refund applications under EU Directive 2008/9/EC.** A nonestablished VAT payer may request a refund of Czech VAT by filing an application through the electronic portal in its country of establishment. The application must be completed in the Czech language.

An application for a VAT refund must contain the following:

- Identification of the claimant (VAT number, business name, registered seat and electronic address)
- Electronic copies of the tax documents if the tax base exceeds the equivalent of €1,000 (€250 in the case of petrol)
- Confirmation that the claimant has not supplied goods or services in the Czech Republic in the period for which the claimant requests a VAT refund (except for supplies subject to the reverse-charge procedure)

- Description of the economic activities of the claimant
- Data regarding the claimant's bank account, including the International Bank Account Number (IBAN) and the Bank Identifier Code (BIC), the name of the account's owner and the currency in which the account is denominated
- The following information for each tax document:
  - VAT number of the supplier
  - Business name of the supplier
  - Evidence number of the tax document
  - Tax point
  - Tax base and amount of VAT in Czech crowns (CZK)
  - Total amount of claimable VAT (if pro rata deduction)
  - Pro rata coefficient
  - Categories of goods and services (respective codes)

The minimum claim period is three calendar months (unless the relevant period represents the remainder of the calendar year), while the maximum claim period is one calendar year. Applications for a refund must be submitted within nine months after the end of the calendar year to which they relate, that is, by 30 September of the following year. Claims that are not filed on time are rejected. The application is considered to be filed on time only if all of the above stated information is provided by the taxpayer by the deadline.

The minimum claim for a period of less than a year but not less than three months is €400 (an equivalent in CZK). For an annual claim or for a remaining period of the year the minimum amount is €50 (an equivalent in CZK). The tax authorities must decide on the VAT refund application within four months after the date on which the claim is submitted or within two months after the submission of the additional information that is requested by them.

VAT is also refunded in a few additional cases (for example, to individuals from third countries with respect to the exports of goods).

## H. Invoicing

**VAT invoices and credit and debit notes.** A Czech VAT payer must generally provide a tax document for all taxable supplies and VAT-exempt supplies with credit made to another taxable person. Invoicing may be delayed up to 15 days after the tax point (see Section E). A tax document is necessary to support a claim for input tax deduction or a refund to a nonestablished business.

If a VAT payer is required to account for VAT on the private use of business assets, the VAT payer must issue “a document of use” similar to a VAT invoice. This document of use may not be used to support a claim for an input tax deduction.

A taxable person is not required to issue a tax document for a supply that is VAT-exempt without credit.

A VAT credit note is used to reduce the VAT originally charged on a supply. The value of the supply must be reduced in the following circumstances, among others:

- The supply that was made is cancelled (in full or in part).
- A supply is returned (in full or in part).
- A discount is provided after the tax point.



- The payment on which a VAT payer was required to charge VAT was subsequently used for purposes of another supply that had different VAT treatment.

A VAT debit note is used to increase the value of the original supply if the price increases after the tax point.

The amount of VAT credited or debited must be separately itemized on the credit or debit note. The credit or debit note must satisfy all of the following requirements:

- It must contain the reason for the correction.
- It must be cross-referenced to the original tax document. If the credited amount relates to several original supplies and if the VAT payer is not able to link the credit note to particular original invoices, a general reference to original invoices (or example, a period in which they were issued) should be sufficient.
- It must contain generally the same information as the original tax document.

**Proof of exports and intra-Community supplies.** Czech VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-exempt, an export supply must be accompanied by official customs declaration stating that the goods have left the Czech Republic. Customs declarations are now processed electronically. As a result, a data file received from the customs authorities represents evidence of goods leaving the Czech Republic and must be stored. To qualify for the exemption, the VAT payer must act as an exporter, and this must be stated on the customs declaration.

Czech VAT is not chargeable on goods supplied to taxable persons in other EU member states (see the chapter on the EU, page 208). For a sale to another EU member state to qualify as a VAT-exempt, intra-Community supply, the following conditions must be satisfied:

- The Czech VAT payer must prove that goods were delivered to another EU member state by the VAT payer, the customer or a third party authorized by the Czech VAT payer or customer.
- The customer must be a VAT payer in the other EU member state.
- The acquisition of the goods must be subject to VAT in the other EU member state.

Transportation documents (for example, Convention on the Contract for the International Carriage of Goods by Road) are suitable proof of the above. In certain cases, written statements of the customer or an authorized third party or other similar documentation may also be sufficient.

**Foreign-currency invoices.** A Czech tax document may not be issued in a foreign currency only. If a foreign currency is used, all values for VAT purposes must be converted to Czech crowns.

For VAT purposes, the exchange rate used to convert foreign currency to Czech crowns is generally the exchange rate declared by the Czech National Bank to be valid for the VAT payer on the date on which the VAT becomes chargeable.

## I. VAT returns and payment

**VAT returns.** Czech VAT returns are generally submitted for monthly periods. Nonestablished businesses and VAT payers with

annual turnover of less than CZK 10 million file VAT returns quarterly (VAT payers with annual turnover exceeding CZK 2 million may opt for monthly VAT periods). VAT returns must be filed within 25 days after the end of the tax period. Payment of the VAT liability must be credited to the bank account of the tax authorities within the same time period. VAT liabilities must be paid in Czech crowns. So-called “nil returns” must be filed if no taxable transactions have taken place in the period.

If the VAT return is filed more than 5 working days late, a daily penalty of 0.05% applies (capped at 5% or CZK 300,000).

**Penalties and default interest.** Default interest is charged for the late payment of VAT due on a VAT return, beginning with the fifth working day. The interest is calculated as a repo rate declared by the Czech National Bank to be valid on the first day of the respective calendar half-year increased by 14 percentage points (the repo rate represents an interest rate at which the Czech National Bank purchases discounted bills from the Czech commercial banks). The default interest may be applied up to a maximum of five years.

A penalty is charged at a flat rate of 20% of the additionally assessed VAT if the VAT liability is increased or the deduction of VAT is decreased, based on the findings of the tax authorities.

## **J. EU declarations**

**INTRASTAT.** A Czech VAT payer that trades with other EU member states must complete statistical reports, known as INTRASTAT, if the value of either the VAT payer’s sales or purchases of goods exceeds certain thresholds. Separate reports are required for intra-Community acquisitions (INTRASTAT Arrivals) and for intra-Community supplies (INTRASTAT Dispatches).

The annual threshold for INTRASTAT Arrivals is CZK 8 million.

The annual threshold for INTRASTAT Dispatches is CZK 8 million.

The INTRASTAT report period is monthly. INTRASTAT reports must be submitted to the competent customs authorities by the 10th working day of the month following the calendar month to which they relate if submitted in paper form, or by the 12th working day of the month following the calendar month to which they relate if submitted electronically. Submission in paper form is allowed in specific cases only.

A penalty of up to CZK 1 million may be imposed for late submission or for missing or inaccurate declarations.

**EU Sales Lists.** If a Czech VAT payer makes intra-Community supplies of goods or provides services to a taxable person established in another EU member state in any tax period, it must submit an EU Sales List (ESL) to the Czech tax authorities together with the VAT payer’s VAT return. If a Czech VAT payer makes intra-Community supplies of goods, an ESL must be filed monthly, regardless of his tax period (quarterly or monthly). An ESL is not required for any period in which the taxable person has not made any intra-Community supplies or has not provided the services mentioned above.

The ESL must be filed electronically by uploading the data to an application accessible on the web site of the Ministry of Finance. If the ESL is submitted through a data message that is neither signed using guaranteed electronic signature based on the qualified certificate issued by an authorized provider nor sent through a data box (mandatory legal instrument for electronic communications between legal entities and public bodies), it must be refiled in paper form.

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## Denmark

(Country code 45)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Merværdiafgiftsloven (Momsloven)
Date introduced	3 July 1967
European Union (EU) member state	Yes
Administered by	Central Customs and Tax Administration ( <a href="http://www.skat.dk">http://www.skat.dk</a> )
VAT rates	
Standard	25%

Other	Zero-rated, exempt and exempt with credit
VAT number format	DK 12 34 56 78
VAT return periods	
General	Monthly
Quarterly	Annual turnover between DKK 1 million and DKK 15 million
Half-yearly	Annual turnover below DKK 1 million
Thresholds	
Registration	
Businesses established in Denmark	DKK 50,000 a year
Businesses established elsewhere	None
Distance selling	DKK 280,000
Intra-Community acquisitions	DKK 80,000 a year (for businesses exempted from VAT)
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Denmark by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in Denmark
- The importation of goods from outside the EU, regardless of the status of the importer

## C. Who is liable

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

The VAT-registration threshold is turnover of DKK 50,000 a year for a business resident in Denmark. No registration threshold applies for a nonestablished business. Consequently, VAT registration is required as soon as a nonestablished business begins making supplies subject to VAT in Denmark.

**Group registration.** Groups of companies or related entities may request registration as a single taxable person (VAT group). If both VAT-registered and VAT-exempt companies are part of a VAT group registration, the parent company must be included in the VAT group. All group members must be 100% owned by the parent company and established in Denmark.

The effect of VAT grouping is that no VAT is charged on supplies between group members. However, if any member of the group has exempt activities, the group must deduct input VAT on a pro rata basis. The group members are jointly and severally liable for any VAT on transactions with third parties.

**Nonestablished businesses.** A nonestablished business must register for Danish VAT if it makes any of the following supplies:

- Goods that are located in Denmark at the time of supply.
- Intra-Community acquisitions in Denmark.
- Distance sales in excess of the annual threshold.
- Services that are not subject to the tax under the “reverse-charge” mechanism (for example, services related to real estate that are supplied to private persons). Most services supplied to taxable persons in Denmark are covered by the Danish reverse-charge regime.

**Tax representatives.** Businesses established in the following countries are not required to appoint a tax representative to register for Danish VAT.

Aland Islands	Faroe Islands	Iceland
EU member states	Greenland	Norway

However, businesses established in the above countries may choose to appoint a tax representative to register for VAT. Businesses established in Norway that import goods into Denmark from outside the EU must appoint a fiscal representative who is jointly and severally liable for any VAT and customs duty payments due.

VAT registration for nonestablished taxable persons from the Aland Islands, EU member states, the Faroe Islands, Greenland, Iceland and Norway may be conducted through the following office:

Skattecenter Toender  
 Pionér Allé 1  
 DK-6270 Toender  
 Denmark

Businesses established in other countries must appoint a Danish resident as tax representative to register for VAT. The representative and the nonresident business are jointly and severally liable for VAT liabilities.

The Danish VAT authorities may require a nonestablished taxable person to provide security equal to its expected VAT liability for a three-month period. This may occur if the VAT authorities believe a risk exists that the nonestablished business may not pay its indirect tax obligations.

**Late-registration penalties.** No specific penalty is levied for late VAT registration. However, a penalty may be charged of up to twice the VAT amount due in the period during which the business was not registered.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies includes exports of goods and related services, intra-Community supplies of goods and intangible services supplied to

either another taxable person established in the EU or a recipient outside the EU (see the chapter on the EU, page 208).

In Denmark, the following are the two rates of VAT:

- Standard rate of 25%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Medical services

Education

Finance

Insurance

Supplies made by writers, composers and performing artists

Cultural services

Transport of passengers

Investment gold

Leasing of real estate

#### **Examples of goods and services taxable at 0%**

Newspapers

Supplies to ships

Supplies of gold to the Danish National Bank

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed.

In Denmark, VAT is due when the invoice is issued, which is normally at the time of supply. In practice, however, the Danish VAT authorities accept invoices that are issued after the time of supply if that is the taxable person’s normal business practice.

**Prepayments.** The time of supply for an advance payment is when the supplier receives the payment even if the supply has not yet been made. A final time of supply occurs when the supply has been completed.

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued.

**Imported goods.** The time of supply for imported goods is the date of the customs clearance or the date on which the goods leave a duty suspension regime.

**Reverse charge.** Certain services imported from outside Denmark by a taxable person are subject to the tax under the “reverse-

charge” mechanism, which means that the recipient of the service must account for VAT. The time of supply for a reverse-charge service is the VAT period in which the service is supplied or the period in which the invoice is issued if the invoice is issued shortly after the supply.

## F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Denmark, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services.

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

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

The following tables provide examples of items of expenditure for which input tax is not deductible, and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Business gifts with a value of more than DKK 100  
Purchase, lease or hire of a private car  
Maintenance costs for a private car  
Employee meals and entertainment

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

50% of hotel accommodation  
Books  
Long-term lease of cars used for a business (a proportion)  
Attendance at conferences, seminars and exhibitions  
25% of a business meal for entertaining clients  
50% of home telephone bill

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. If a Danish taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as “partial exemption.” Exempt with credit supplies are treated as taxable supplies for these purposes.

The amount of input tax that may be recovered is calculated in the following two stages:

- The first stage is the direct allocation of VAT to exempt and taxable supplies. Input tax directly allocable to exempt supplies is not deductible.

- The second stage is to prorate the remaining input tax that relates to both taxable and exempt supplies (for example, VAT incurred on business overhead) based on the percentage of taxable supplies to total supplies made. The pro rata calculation must be performed each year. The recovery percentage is rounded up to the next whole number (for example, a recovery percentage of 77.2% is rounded up to 78%).

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

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

- Land and buildings including additions and alterations: adjusted for a period of 10 years
- Repair, maintenance and renovation of land and buildings if the annual cost exceeds DKK 100,000: adjusted for a period of five years
- Items of machinery, equipment and furniture costing more than DKK 100,000: adjusted for a period of five years

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

**Refunds.** If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable, a refund may be claimed by submitting the VAT return form.

## G. Recovery of VAT by nonestablished businesses

The Danish tax authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Denmark. A nonestablished business may claim Danish VAT to the same extent as a VAT-registered business. The refund procedure depends on whether the business seeking the VAT refund is established in the EU or in a third country. Refunds to businesses established in the EU are made under the rules in Directive 2008/9/EC. Refunds to businesses established outside the EU are made under the rules in Directive 86/560/EEC (13th VAT Directive). In practice, Denmark does not exclude businesses from any non-EU countries from the recovery scheme.

For the general rules of the EU VAT refund schemes, see the chapter on the EU, page 208.

**Refund application.** The deadline for refund claims for both EU and non-EU businesses is 30 September of the year following the year in which the tax is incurred.



Claims must be submitted in Danish, English, German or Swedish. The application for a refund must be accompanied by the appropriate documentation (see the chapter on the EU, page 208).

The minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is DKK 3,000. For an annual claim, the minimum amount is DKK 400. These limits apply to both EU and non-EU businesses.

Applications for refunds of Danish VAT may, for businesses established outside the EU, be sent to the following office:

Skattecenter Toender  
13 moms  
Pionér Allé 1  
DK-6270 Toender  
Denmark

Businesses established in another EU member state must apply for a VAT refund by following an electronic procedure (see the chapter on the EU, page 208).

**Repayment interest.** If the acceptance of the refund request and the payment of the refund (or the denial of the refund request) do not occur within six months, the Danish VAT authorities pay interest to claimants for refunds under the general Danish rules.

## H. Invoicing

**VAT invoices and credit notes.** A Danish taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the VAT refund schemes (see the chapter on the EU, page 208).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must be cross-referenced to the original VAT invoice and contain the same information.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left Denmark. Acceptable proof includes the following documentation:

- For an export, the seller must retain the signed customs documentation with a pro forma invoice and commercial evidence such as customer orders and contracts.
- For an intra-Community supply, the seller must indicate the customer's VAT identification number (from a different EU country) and must retain commercial documentation, such as purchase orders, transport documentation, and evidence of both payment and receipt of goods.

**Foreign-currency invoices.** A Danish VAT invoice may be issued in Danish krone (DKK) or euros. If another currency is used, the

amount of VAT must be converted into Danish krone, either by using the current exchange rate or the official monthly rate of exchange published by the Danish VAT authorities.

## **I. VAT returns and payment**

**VAT returns.** A Danish taxable person whose turnover exceeds DKK 15 million must submit VAT returns on a monthly basis. A taxable person with a turnover of between DKK 1 million and DKK 15 million must submit returns quarterly. A taxable person with turnover of less than DKK 1 million must submit returns half-yearly.

Monthly VAT returns and payments are due by the 25th day of the month following the return period. Quarterly VAT returns and payments are due by the 10th day of the second month following the end of the return period. Half-yearly VAT returns and payments are due by the 1st day of the third month following the end of the return period.

A summer VAT relief scheme allows payment for the June period or the second quarter to be made by 17 August.

Returns must be completed and liabilities must be paid in Danish krone.

**Penalties.** The penalty for the late submission of a VAT return is DKK 65 per reminder for payment. In addition, interest is levied for late payment of VAT. The current interest rate is 0.9% per commenced month.

## **J. EU declarations**

**INTRASTAT.** Danish taxable persons that trade with other EU countries must complete statistical reports, known as INTRASTAT, if the value of their sales or purchases exceeds certain thresholds. Separate reports cover intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches).

The threshold for INTRASTAT Arrivals for 2011 is DKK 3,400,000.

The threshold for INTRASTAT Dispatches for 2011 is DKK 4,600,000.

Danish taxable persons must complete INTRASTAT declarations in Danish krone. Euros may not be used.

The INTRASTAT return period is monthly. The submission deadline is the 10th working day of the month following the end of the INTRASTAT return period.

If a report is late or missing, a fine of DKK 550 is imposed.

**EU Sales Lists.** If a Danish taxable person makes intra-Community supplies or renders services that are subject to reverse charge in another EU country in any return period, it must submit an EU Sales List (ESL). An ESL does not need to be submitted for a period in which no intra-Community supplies are made.

In principle, ESLs must be submitted monthly. In some cases, business that have limited intra-Community supplies may obtain permission to submit ESLs on a quarterly basis. However, currently all businesses must submit ESLs on a quarterly basis.

ESLs must be completed in Danish krone.

If an ESL is late, a reminder penalty of DKK 65 is imposed.

## Dominican Republic

(Country code 1)

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### A. At a glance

Name of the tax	Tax on the transfer of industrialized goods and services
Local name	Impuesto sobre la transferencias de bienes industrializados y servicios (ITBIS)
Date introduced	April 1992
European Union (EU) member state	No
Administered by	Dirección General de Impuestos Internos (DGII) ( <a href="http://www.dgii.gov.do">http://www.dgii.gov.do</a> )
ITBIS rates	
Standard	16%
Other	Exempt and zero-rated
ITBIS number format	Tax identification number (known as the “RNC” number)

ITBIS return periods	Monthly
Thresholds	
Registration	None (the tax authorities may apply special provisions to small taxpayers; see Section C)
Recovery of ITBIS by nonestablished businesses	No

## B. Scope of the tax

ITBIS applies to the following transactions:

- Transfer of industrialized goods
- Importation of industrialized goods
- Leasing and rendering of services

## C. Who is liable

The following are ITBIS taxpayers:

- Individuals or business entities, whether domestic or foreign, that transfer industrialized goods as part of their industrial or commercial activities
- Individuals or business entities engaged in the importation of goods subject to ITBIS
- Individual or business entities that render services subject to ITBIS

No turnover threshold applies to ITBIS registration.

Within 30 days after beginning taxable activities, the taxpayer must notify the tax authorities of its activities.

**Small taxpayers.** A simplified tax procedure (Procedimiento Simplificado de Tributación, or PST) applies to small taxpayers. The PST is based on purchases or income.

The PST based on purchases applies to taxpayers that make annual purchases of RD\$30 million (approximately US\$769,231) or less and that satisfy one of the following conditions:

- They perform commercial activities related to retail sales to final consumers.
- They perform commercial activities related to wholesale or retail sales of merchandise if the industrial products (products that are subject to industrial transformation) are acquired directly and principally from the national industries or from wholesale sellers of industrial products.
- They manufacture using raw materials acquired from the local market, and their sales are made to taxpayers that do not benefit from the PST.

The PST based on income applies to small taxpayers that satisfy all of the following conditions:

- They have annual income of not higher than RD\$6,532,800 (approximately US\$167,508).
- They do not use organized accounting.
- Their income is exempt from ITBIS, more than the 50% of their income is derived from ITBIS-exempt activities or 100% of the ITBIS generated corresponds to services rendered that are subject to withholding.

The above provisions may include measures designed to reduce the frequency of the filing of ITBIS returns and to simplify other ITBIS requirements.

**Group registration.** Although the tax authorities do not apply group registration, under the Dominican ITBIS Law, the tax authorities may consider as unique taxpayers entities, individuals, enterprises or combinations of them, if they transfer or render ITBIS taxable goods or services and if these activities are controlled by the same person or persons (individuals, entities or combinations). If an individual exercises control or administers several businesses or establishments, the ITBIS imposed is considered to be the ITBIS of such individual.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in the Dominican Republic. In principle, a nonestablished business must register to pay ITBIS to the tax authorities if it supplies goods or services in the Dominican Republic. To register for ITBIS, a nonestablished business must register with the Chamber of Commerce and the tax authorities.

The Dominican tax regulations do not provide a reverse-charge mechanism.

**Late-registration penalties.** A taxpayer that fails to register for ITBIS on a timely basis may not deduct tax on goods purchased by the business that form part of its inventory at the time of registration.

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

#### **D. ITBIS rates**

In the Dominican Republic, the standard rate of ITBIS is 16%. The standard rate applies to all supplies and importations of goods and to the list of taxable services, unless a specific provision allows an exemption. In addition, some activities are exempt activities or zero-rated.

The following table lists examples of exempt goods and services (this list is not exhaustive).

##### **Examples of exempt goods and services**

- Live animals
- Fresh, refrigerated or frozen meat
- Fish for popular consumption or reproduction
- Milk, eggs, and honey
- Nonprocessed fruit for massive consumption
- Decaffeinated coffee
- Sugars
- Cocoa and chocolate
- Certain types of medicines
- Certain types of books and magazines
- Education services, including theatre, ballet, opera, and dance
- Health services
- Electricity, water, and garbage collection services
- Financial services (including insurance)

## E. Time of supply

The time when the taxable event is considered to take place and ITBIS becomes due is called the “tax point.”

**Transfer of goods.** The basic time of supply for the transfer of goods is when the invoice is issued or, if an invoice does not exist, the time of delivery or withdrawal of the goods.

**Services.** The basic time of supply for services is the earlier of the following:

- When the service is performed
- When an invoice is issued
- When the service is complete
- When the price is paid in full or in part

**Imports.** The time of supply for imported goods is when the goods are placed at the disposition of the importer.

**Leasing.** The time of supply for leasing is when the lease contract is signed or when the delivery of the leased property is made to the lessee, whichever is earliest. For long-term leases and for leases covering both personal and real property, the time of supply is when the rental installment expires or when the rent is collected, whichever is earliest.

## F. Recovery of ITBIS by taxable persons

An ITBIS taxpayer may deduct as input tax the advance taxes paid with respect to the following purchases:

- The purchase of domestic goods and services that are subject to ITBIS
- The importation of goods subject to ITBIS

The right to deduct advance taxes must be supported by proper documentation related to the local purchase or the importation of the goods.

**Prorated ITBIS deduction.** If it is not possible to determine whether the goods purchased or imported by a taxpayer have been used in performing taxable or exempt activities, the input tax deduction is prorated. The deductible proportion is based on the value of the taxpayer’s taxable operations in the tax year compared with the value of its total operations for the tax year.

**Refunds.** If the total deductible taxes in a period are greater than the gross tax payable, the difference may be carried forward by the taxpayer as a deduction in the following months. This situation does not relieve the taxpayer from the obligation to file an ITBIS return.

Exporters that have excess credits for advance taxes paid on the purchase of raw materials may request a refund for the advance tax over a six-month period. The same treatment is granted to producers of goods exempt from ITBIS.

A refund of ITBIS may be requested if the invoice is voided within 30 days after the issuance of the invoice.

## G. Recovery of ITBIS by nonestablished businesses

The Dominican Republic does not refund ITBIS incurred by foreign or nonestablished businesses unless they are registered as taxpayers with the tax authorities.

## H. Invoicing

**ITBIS invoices and credit notes.** An ITBIS taxpayer must generally provide invoices indicating ITBIS for all taxable supplies made. Invoices must include an official invoice number (Número de Comprobante Fiscal, or NCF) and the taxpayer's registration number (RNC), and it must show the ITBIS amount separately, among other requirements.

An invoice showing the NCF, RNC and the ITBIS amount separate from the total amount is generally necessary to support a claim for an input tax credit.

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

**Official invoice number.** The invoice for every transfer of goods or supply of services rendered must show an official invoice number (NCF from its Spanish acronym). The NCF is made up of a numeric sequence, granted by the tax authorities at the request of the taxpayer.

Fiscal supporting documents must contain the NCF to support deductions for income tax purposes or ITBIS credits.

The fiscal supporting documents must be printed directly by taxpayers through their computer systems or by printing establishments authorized by the tax authorities.

**Exports.** Exported goods are zero-rated for ITBIS purposes. Under the ITBIS law, a compensation and reimbursement procedure is provided for exporters and producers of ITBIS-exempt goods. This procedure allows the compensation or reimbursement of the ITBIS charged with respect to goods to be used for exportation activities.

## I. ITBIS returns and payment

**ITBIS returns.** ITBIS returns are submitted monthly. Returns must be submitted by the 20th day of the month following the end of the return period. Payment in full is due on the same date. A return must be filed, even if no ITBIS is due for the period.

Tax due must be paid in Dominican pesos (RD\$).

### Penalties

*Late payments.* The following are the penalties for late payments of ITBIS:

- **Surcharges:** charged at 10% of the unpaid tax for the first month or fraction of a month, and at 4% per month for each successive month or fraction of a month.
- **Interest:** charged at 1.73% per month or fraction of a month. This amount is added to the surcharge.

*Tax evasion.* Tax evasion that does not constitute fraud occurs if, by any action or omission, a taxpayer files an inaccurate tax return that results in a reduction in the tax payment to be made to the tax authorities. The penalty may consist of up to twice the unpaid amount plus interest and the closure of the business. If the amount of the unpaid tax cannot be determined, a fine ranging from 10 to 50 times the minimum salary (the minimum salary is approximately US\$150) may be imposed. The tax evasion penalty may not be applied simultaneously with surcharges for late payment.

*Violation of formal duties.* Certain violations for the failure to fulfill the formal duties of taxpayers, representatives and third parties established in the Dominican Republic Tax Code could result in a fine of 5 to 30 times the minimum salary. The following are the violations:

- Failure to maintain accounting books or records required by law
- Providing false information when registering for ITBIS
- Not registering in the relevant tax registries
- Refusing to provide information to the tax authorities
- Failure to file tax returns for the calculation of tax payments

*Tax fraud.* Tax fraud occurs when information has been altered in a manner that causes the tax authorities to incorrectly compute the amount of tax due. The consequences of tax fraud may include a penalty ranging from 2 to 10 times the amount of the evaded tax, closure of the business establishment or the cancellation of an operating license.

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## Ecuador

(Country code 593)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	31 December 1981
European Union (EU) member state	No
Administered by	Ecuadorian Internal Revenue Service (IRS) ( <a href="http://www.sri.gob.ec">http://www.sri.gob.ec</a> )
VAT rates	
Standard	12%
Other	0% and exempt
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	No



## B. Scope of the tax

VAT is levied to the following transactions:

- The supply of goods or rendering of services performed in Ecuador
- The importation of goods and services from outside Ecuador
- The supply of copyrights, industrial property and related rights (effective from 2011, all transactions involving intellectual property rights are considered services)

## C. Who is liable

A VAT taxable person is an individual or business entity that, in the course of doing business in Ecuador, engages in the following actions:

- Transfers and/or imports physical movable goods
- Performs and/or imports services

No registration threshold applies.

The definition of a VAT taxable person also applies to a permanent establishment (PE) of a foreign business located in Ecuador.

**Group registration.** VAT grouping is not allowed under the Ecuadorian VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** If nonestablished businesses perform transactions on which VAT is levied, a sales and purchase receipt must be issued by the local company and the VAT paid is assumed by the local company.

## D. VAT rates

The general rate of VAT in Ecuador is 12%. A zero rate (0%) and exemptions also apply.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the 0% rate.

### Examples of exempt supplies

Sale of a business  
 Mergers, spinoffs and conversions of companies  
 Donations to charities  
 Transfers of stock, shares and other negotiable instruments

### Examples of goods and services taxed at 0%

Unprocessed food  
 Agricultural goods (such as certified seeds, plants and roots) and equipment  
 Drugs and veterinary products  
 Paper, newspapers, magazines, books and publishing services  
 Exported goods  
 Transport of persons and materials and air cargo transport  
 Education  
 Health services  
 Public supply of electricity, drinking water and sewerage services  
 Real estate transactions  
 Rent for housing purposes  
 Financial securities exchanges

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply is when the goods are transferred or when the services are performed. The invoice for the transaction must be issued at the time of supply.

The total amount of VAT must be paid even in credit operations.

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

## F. Recovery of VAT by Ecuadorian taxable persons

VAT input tax may be recovered with respect to the following:

- Exportation of goods
- Importation and local acquisition of goods and raw materials used in the production of exported goods
- The provision of goods or services to governmental entities (some restrictions apply)

The recovery may be achieved through the offsetting of VAT receivable against VAT payable or through a claim to the tax authorities.

If a taxpayer registers a VAT credit as an expense, the expense is not deductible for income tax purposes.

### Input tax credit system

*Full input tax credit.* Taxpayers that produce goods or supply services that are subject to 12% VAT may recover the input tax paid, netting it with local acquisitions. The same treatment applies to VAT taxable persons that export goods and services. VAT input tax can be recovered with respect to imports of fixed assets and goods, raw materials and services necessary to produce and trade taxable goods and services.

*No input tax credit.* Taxable persons that exclusively produce or sell goods, or supply services that are subject to VAT at the zero rate (other than exports of goods or services), are not entitled to any input tax recovery.

*Partial input tax credit.* VAT taxable persons that supply goods or render services that are subject to VAT at both rates (12% and 0%) may recover a proportion of input tax.

The recovery percentage is calculated using a pro rata method, using the ratio of the total value of supplies made at the standard rate (12%) plus exports to the total value of all supplies made. The following is the ratio:

$$\frac{\text{Supplies subject to a rate of 12\% + exports}}{\text{Total sales + exports}}$$

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

## G. Recovery of VAT by nonestablished businesses

Ecuador does not refund VAT incurred by foreign businesses unless they have a PE in Ecuador.

## H. Invoicing

**VAT invoices.** In general, a VAT taxpayer must issue an invoice for all taxable transactions performed, including exports. Such invoices are necessary to support a tax credit.

**Exports.** Ecuadorian VAT is not chargeable on supplies of exported goods or services. However, to qualify as VAT-free goods, exports must be supported by customs documents evidencing that the goods have left Ecuador.

**Foreign-currency invoices.** Invoices related to supplies made in Ecuador must be issued in U.S. dollars (US\$).

## I. VAT returns and payment

**VAT returns.** VAT returns are generally submitted monthly. VAT returns and payment in full are due between the 10th and the 28th day of the month following the end of the return period. To determine the filing deadline for a VAT taxable person, the tax administration uses the ninth number of its tax identification number (RUC).

In certain circumstances, VAT-taxable persons that supply goods and services exclusively at the 0% rate may submit VAT returns every six months.

VAT shown in tax returns must be paid in U.S. dollars.

**Penalties.** A range of penalties is assessed for errors and omissions with respect to VAT accounting, including the late filing of a VAT return or late payment of the tax. The interest rate for late payment is set every quarter.

Penalties for noncompliance with VAT obligations include fines of up to five times the amount lost by the tax authorities, closure of the business and imprisonment.

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# Egypt

(Country code 20)

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**A. At a glance**

Name of the tax	General sales tax
Local name	Al-Dareeba AlAmaa Ala ElMabeeat
Date introduced	3 May 1991
European Union (EU) member state	No
Administered by	Ministry of Finance (www.mof.gov.eg)
Rates	
General rate (Certain essential or luxury items are subject to lower or higher rates.)	10%
Number format	123/456/789
Return periods	Monthly
Thresholds	
Manufacturers and service providers	EGP 54,000
Wholesalers and retailers	EGP 150,000
Importers of goods and services for trading purposes	Nil
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

GST is levied on locally manufactured goods and imported goods except for goods exempted by a special measure.

The law provides that 17 types of services are subject to GST, including the following:

- Hotels and restaurants
- Telecommunications
- Maintenance and installation services
- Car rental and tourist transport services
- Security and cleaning services
- Courier services

**C. Who is liable**

A taxable person is a business entity that satisfies the following conditions:

- It engages in manufacturing, the provision of services or the sale of goods, on a wholesale or retail basis, and it has reached the thresholds determined by the law. These thresholds vary depending on the types of activities engaged in by the business entity.
- It imports goods or services for trading purposes. No threshold applies to importers.

A taxable person must register with the General Sales Tax Authority.

Entities that have reached the registration threshold may not add any sales tax to their invoices until they register with the Sales Tax Authority.

## D. GST rates

The standard GST rate is 10%. However, rates ranging between 1.2% to 45% apply to some goods and services, and rates ranging from 1.2% to 3% apply to construction activities. The following table provides examples of items that are subject to different rates (this list is not exhaustive).

Item	GST rate (%)
Contracts, including contracts for supply of machinery, installation and construction activities	1.2
Construction civil work	2.9
Cleaning materials for household purposes and steel	5
Cars of 1,600 cc or less	15
Cars over 1,600 cc and less than 2,000 cc	30
Locally manufactured cars over 2,000 cc	30
Imported cars over 2,000 cc	45
Refrigerators over 12 feet, air-conditioning units and videos	25
All exports	0

**Exemptions.** Goods, equipment, machinery, services and their raw material components that are necessary for defense and national security are exempt from GST. This measure applies to the following entities if the concerned Minister, Head of Authority or their appropriate delegates issue a certificate confirming the applicability of the measure:

- Companies and authorities associated with the Ministry of Defense
- Ministry of Interior Affairs
- National Security Authority
- Arab Manufacturing Authority

The following transactions may be exempt from GST subject to specified limits, to reciprocal arrangements with the relevant countries and to guidance issued by the Ministry of Foreign Affairs:

- Purchases and imports for personal use by foreign members of diplomatic and consular corps (nonhonorary) listed in tables issued by the Ministry of Foreign Affairs and purchases and imports for the personal use of such foreigners' spouses and minors.
- Purchases or imports for official use by nonhonorary embassies, legations and consulates except for food, spirits and tobacco. Vehicles exempted under this measure and the measures described in the preceding bullet are one car for personal use, five cars for official use of each embassy or legation and two cars for official use of each consulate. In accordance with an agreement with the Minister of Foreign Affairs, the Minister of Finance may increase such limits.
- Imported baggage, furniture, home appliances and one used car for foreign official persons working in such diplomatic or consular missions referred to above who do not benefit from exemptions stipulated in the first bullet above, if the importation of such items occurs within six months after the arrival date of the person. By an agreement with the Minister of Foreign Affairs, the Minister of Finance may extend such six-month period.

The above exemptions are effective after the approval of the exemption application by the Head of the Diplomatic or Consular Mission, as the case may be, and the ratification of such approval by the Ministry of Foreign Affairs.

The Egyptian Sales Tax Law does not provide for partial exemptions.

### **E. Time of supply**

Under Sales Tax Law No. 11 of 1991, GST is due at the point of sale of a commodity or the supply of a service by a taxable person.

The use of goods or services by a taxable person for private or personal purposes or any legal disposal is deemed to be a sale for GST purposes.

The tax on imported goods is due on customs clearance.

GST does not apply to imports of goods, other than automobiles, or services by businesses located in free-trade zones, free cities and free shops, for the purpose of carrying out the businesses' licensed activities.

### **F. Recovery of GST by taxable persons**

**Deductible input tax.** Subject to the terms and conditions stipulated in the Executive Regulations, when calculating amounts of tax due, a registrant may deduct the following amounts from tax due on its sales of goods:

- Tax previously paid or charged on its inputs
- Tax on returned goods
- Tax paid or charged at every stage of distribution

If the deductible tax exceeds the tax due on export sales, the General Sales Tax Authority refunds the difference within a period not exceeding three months from the date of application for the refund, in accordance with the terms, conditions and procedures specified in the Executive Regulations.

**Nondeductible input tax.** For service providers, input tax is generally nondeductible in the monthly sales tax declaration. However, it should be treated as part of the cost of providing the service in the accounts of the service provider.

**Capital goods.** When calculating the tax due, registrants may deduct from the tax due on their sales of goods and services the tax previously paid on machinery, equipment, parts and accessories used in manufacturing a taxable commodity or performing a taxable service except for motor vehicles for transportation of people and cars, unless such vehicles and cars are used for carrying out the licensed activity of the business.

To the extent that the amount cannot be deducted in full, any excess may be carried forward to the following tax periods until relief is obtained in full.

The Minister of Finance has set the following rules for the payment of tax charged on machinery and equipment:

- For companies that will not be able to obtain a refund of the tax due on machinery, equipment, parts and accessories, the tax due must be paid over a 10-year period on an installment basis.

- The first 3 years of the 10-year period are a grace period. The remaining tax due may be settled over the next seven years.
- An amount equal to 0.5% of the value of the machinery must be paid immediately when clearing the machinery at customs. This represents 5% of the tax due. The remaining 95% must be paid over the remaining seven-year period.

**Refunds.** If certain conditions are satisfied, tax collected in certain specified situations must be refunded within three months after the date of application for the refund. The following are the specified situations:

- Tax collected on goods that are exported in their same state or as components in other exported goods.
- Tax collected in error. The refund is granted on receipt of an application from the person concerned.

## **G. Recovery of GST by nonestablished businesses**

In general, foreign companies cannot register for GST purposes before legally establishing an entity in Egypt.

A nonestablished business that is providing a taxable service in Egypt must settle the GST liability with the tax authority. Egypt does not refund GST incurred by businesses that do not have a legal establishment in the country.

For sales of goods by nonestablished businesses to resident entities, GST is settled on the customs clearance by the importer.

For taxable services provided by nonestablished businesses to resident entities, the tax authority may request that the resident entity settle the GST due on the taxable service.

## **H. Invoicing**

**GST invoices and credit notes.** Sales invoices must be serial numbered and include the sales tax registration number, address and contact details of the company. Based on the instructions of the Sales Tax Authority, a taxable person must maintain the original invoices for approval by the Sales Tax Authority on inspection at a later date.

A VAT registrant is also required to maintain proper books and records to record its transactions. It must retain such records together with copies of the invoices for three years following the end of the fiscal year in which the entries are made.

**Foreign-currency invoices.** Sales invoices may be issued in a foreign currency. It is preferable that the exchange rate used be mentioned on the invoice.

## **I. GST returns and payments**

**Returns and payment.** GST returns must be submitted monthly. The monthly GST return must be submitted and monthly GST paid within 60 days following the end of the relevant month.

**Penalties.** Penalties for late filing and late payment of GST are calculated at a rate of 0.5% of the unpaid amount for every week or part of a week for which the filing or payment is late. The penalties must be paid together with an additional once-off penalty of EGP 2,000.

# El Salvador

(Country code 503)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Impuesto a la transferencia de bienes muebles y a la prestación de servicios (ITBMS)
Date introduced	July 1992
European Union (EU) member state	No
Administered by	Ministry of Treasury ( <a href="http://www.mh.gob.sv">http://www.mh.gob.sv</a> )
VAT rates	
Standard	13%
Other	Exempt and zero-rated
VAT number format	Taxpayer registry number (NRC)
Vat return periods	Monthly
Thresholds	
Registration	Annual turnover of US\$5,714.29 or fixed assets of US\$2,285.71
Recovery of VAT by nonestablished businesses	No, unless the nonresident business has a registered legal or tax representative in El Salvador



## B. Scope of the tax

VAT applies to the following transactions:

- The transfer of tangible goods or rendering of services in El Salvador
- The purchase of imported services by a taxable person in El Salvador
- The importation of tangible goods from outside El Salvador, regardless of the status of the importer
- Self-consumption of inventories by VAT taxpayers or transfers of tangible goods for promotional purposes

## C. Who is liable

Any individual or business that has annual turnover exceeding US\$5,714.29 or that owns fixed assets valued at US\$2,285.71 or more must register as a VAT taxpayer. The requirement to register also applies to permanent establishments in El Salvador of foreign entities. In addition, entities and individuals must pay VAT when any of the taxable events outlined in Section B occur.

**Voluntary registration.** Individuals whose turnover is below the registration threshold may register voluntarily as VAT taxpayers. Nonresident entities that wish to recover local VAT paid may also register voluntarily.

**Small taxpayers.** No special regime exists for small taxpayers in El Salvador.

**Group registration.** VAT grouping is not allowed under the El Salvadorian VAT Law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in El Salvador. In principle, a nonestablished business must register for VAT if it transfers tangible goods or renders services in El Salvador on a regular basis. To register for VAT, a nonestablished business must provide the tax authorities with the following:

- A copy of its Articles of Incorporation, legalized by a Salvadorian consulate (or with an *apostille*), together with an official translation into Spanish
- Any other documentation required by the tax authorities, including registration of a legal or tax representative

The Salvadorian VAT Law establishes a reverse-charge mechanism. Under this mechanism, the consumer must self-assess, withhold and pay the VAT due. The reverse-charge mechanism applies if the taxable activities (activities performed or used in the country) are rendered by a nonresident. The consumer or resident taxpayer may offset the VAT paid for the services with VAT debits under the general VAT rules.

**Noncompliance with registration obligations.** A penalty of three minimum legal wages is imposed on a taxpayer that fails to register for VAT purposes. In the event of late registration, a penalty of two minimum legal wages applies. The penalties mentioned above apply, regardless of whether interest and penalties are assessed for unpaid VAT.

## D. VAT rates

The VAT law in El Salvador provides for exempt activities and zero-rated activities. Unlike zero-rated activities, exempt activities do not permit a taxpayer to claim the input tax deduction (See Section F). In El Salvador, the standard rate of VAT is 13%. The standard rate applies to the transfer of tangible goods or rendering of services, unless a specific measure provides for an exemption.

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

### Examples of exempt supplies of goods and services

Health services offered by public institutions

Rental of houses and apartments for noncommercial purposes

Public land transport

The importation by registered VAT taxpayers of machinery used as a fixed asset in the production of goods and services that are not exempt (if the assets are registered with the tax authorities 30 days in advance)

Education provided by private or public institutions authorized by the Ministry of Education

Certain financial services regarding interest payments made by domiciled and nondomiciled financial institutions (domiciled financial institutions must be authorized by the Superintendence of the Financial System, and the nondomiciled financial institutions must be authorized by the competent authority in their country of origin and qualified by the Central Bank of Reserve)

Water services offered by public entities

Personal insurance services and reinsurance

## E. Time of supply

The taxable event when VAT becomes due is called the “tax point.”

For the supply of goods, the tax event is the earliest of the following events:

- The issuance of the invoice, receipt or other document related to the transaction
- Delivery of the goods
- Receipt of payment

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

- The issuance of the invoice, receipt or other document related to the transaction
- Provision of the service
- Receipt of payment

**Continuous supplies of services.** For a continuous supply of services rendered in return for periodic payments, the tax event is the earlier of the issuance of the invoice or the due date established for the periodic payment, notwithstanding the date of payment for the service.

**Imported goods.** The taxable event for imported goods is when the goods clear all customs formalities for importation (definite importation).

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT paid on the purchase of goods and services for business purposes. Input tax is generally credited against output tax, which is the VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied in El Salvador, VAT paid on imported goods and VAT self-assessed on reverse-charge services. In general, the input tax credit is allowed for ordinary business expenditure that is indispensable to the taxpayer's taxable activity (that is, the business activity that generates output tax).

A valid tax document referred to as "proof of tax credit" or an "import declaration" must support every claim for an input tax credit.

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

**Refunds.** If the amount of input VAT recoverable in a particular month exceeds the amount of output VAT payable, the taxpayer obtains an input VAT credit. The credit may be carried forward to offset output tax in subsequent VAT periods.

A cash refund or Public Treasury notes may be claimed only if the credit relates to export activities. An input VAT credit related to export supplies may be carried forward to offset output VAT in the following VAT period. If the credit may not be fully offset against output VAT, the taxpayer may request an offset of other tax liabilities or a refund of the excess amount.

## G. Recovery of VAT by nonestablished businesses

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

## H. Invoicing

**Tax credit documents, invoices and credit notes.** A taxpayer must generally provide VAT invoices for all taxable supplies made, including exports. However, for supplies made to other VAT taxpayers, a "proof of tax credit" document must be issued. A proof of tax credit document is required to support a claim for the input tax credit. Proof of tax credit documents must be issued in triplicate (with two copies provided to the purchaser of the goods or services). Invoices must include an official invoice number (NCF) and the taxpayer's registration number (NRC), and it must show the VAT amount separately, among other requirements.

If the nature of a business makes it impractical for a taxpayer to issue tax invoices, the tax authorities may authorize the use of cash registers and computerized systems to issue tickets (cash receipts) instead of invoices.

Price reductions, discounts or bonuses may be excluded from the VAT base if they are included in the proof of tax credit document or in credit and debit notes. A credit note must contain the same information as a tax credit document.

**Exports.** A zero rate of VAT applies to supplies of exported goods. However, to qualify for the zero rate, a definitive transfer of the goods that are to be used or consumed abroad must occur. Exports must be supported by customs documents that prove the goods have left El Salvador. Suitable evidence includes export invoices and bills of lading.

**Foreign-currency invoices.** VAT invoices and tax credit documents may be issued in Salvadorian colons (SVC) or U.S. dollars (\$).

## I. VAT returns and payment

**VAT returns.** VAT returns are submitted monthly. Returns must be submitted by the 10th working day of the month following the end of the return period. Payment in full is due on the same date. A return must be filed even if no VAT is due for the period.

Tax due may be paid in Salvadorian colons or U.S. dollars.

**Penalties.** Penalties may vary from 5% up to 50% of the VAT amount due. For some offenses, the penalty may be computed based on the minimum legal wage.

Penalties for tax evasion under the Salvadorian Criminal Code include imprisonment for a period of four to eight years.

**Tax evasion.** The Salvadorian Tax Code regulates penalties for unintentional or intentional tax avoidance. If tax avoidance is considered unintentional, the penalty is 25% of the unpaid tax. For intentional tax avoidance that results in an underpayment of tax that is below the criminal amount, the penalty is 50% of the unpaid tax.

**Tax fraud.** Criminal tax avoidance penalties are based on the amount of the evasion or attempted evasion. If the amount of unpaid taxes ranges from US\$11,428.57 to US\$34,285.71, the penalty is imprisonment for four to six years. If the amount of unpaid taxes exceeds US\$34,285.71, the penalty is six to eight years of imprisonment.

If the unpaid taxes plus the corresponding penalties are paid to the tax authorities, no criminal fraud penalties are imposed.

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## Estonia

(Country code 372)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Käibemaks
Date introduced	1 January 1991
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	Ministry of Finance ( <a href="http://www.fin.ee">http://www.fin.ee</a> ) Estonian Tax and Customs Board ( <a href="http://www.emta.ee">http://www.emta.ee</a> )
VAT rates	
Standard	20%
Reduced	9%
Other	Zero-rated and exempt
VAT number format	EE123456789
VAT return periods	Monthly
Thresholds	
Registration	€16,000
Distance selling	€35,000
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Estonia by a taxable person
- The supply of services with a place of supply not in Estonia (that is, services are provided through a seat or fixed establishment located in Estonia to a person who is registered as a taxable person or taxable person with limited liability in the EU or who is a person from a non-EU country engaged in business)
- Reverse-charge services received by a taxable person in Estonia (that is, services for which the recipient is liable to pay the VAT)
- The intra-Community acquisition of goods (see the chapter on the EU, page 208)
- The importation of goods into Estonia (except for VAT-exempt imports), regardless of the status of the importer

## C. Who is liable

A taxable person is an individual or a business entity (including a public entity and municipality) that makes taxable supplies of goods or services in the course of a business in Estonia. This rule also applies to a branch or fixed establishment of a foreign business entity.

The VAT registration threshold is annual supplies in excess of €16,000, counted from the beginning of a calendar year. A non-established business without a fixed establishment in Estonia that makes a taxable supply must register for VAT in Estonia if the place of supply is Estonia and if the supply is not taxed by the Estonian taxable person (purchaser). The registration obligation arises from the moment of the supply, regardless of the threshold of €16,000. A business that is liable to register for VAT in Estonia must notify the VAT authorities of its liability within three days.

**Distance sales.** If a taxable person established in another EU member state is engaged in distance selling to a nontaxable person in Estonia (excluding distance selling of excise goods) and if the taxable value of the distance sales exceeds €35,000 from the beginning of a calendar year, the registration obligation for the vendor arises from the date on which the threshold was exceeded (see the chapter on the EU, page 208).

**Intra-Community acquisitions.** If the taxable value of intra-Community acquisitions of goods by a nontaxable person (except excise goods and new means of transport) exceeds €10,000 from the beginning of a calendar year, the obligation to register as a taxable person with limited liability arises from the date when the threshold was exceeded (see the chapter on the EU, page 208).

Special rules apply to foreign or “nonestablished businesses.”

**Voluntary registration.** A business established in Estonia whose supplies do not exceed the registration threshold may voluntarily register for VAT.

The tax authorities have the right not to register persons who do not prove that they are performing business activities or are about to begin business activities in Estonia.

**Group registration.** A parent company and its subsidiaries may apply to register as a VAT group. One VAT registration number is provided to all members of the VAT group. The effect of grouping is that no VAT is charged on supplies between group members if the person who acquired the goods or services as a result of the transaction uses them entirely for the purposes of that person’s taxable supplies. Group members are jointly and severally liable for all VAT liabilities.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Estonia. A nonestablished business must register for VAT if it makes taxable supplies of goods or services regardless of the amount of the supply (that is, effective from the first supply). A registered branch or resident legal person must be registered for VAT if it makes taxable supplies in Estonia totaling more than €16,000 from the beginning of the calendar year.

**Tax representatives.** The appointment of a tax representative is required for non-EU entities that are not established in Estonia. EU entities that are not established in Estonia may appoint a tax representative. A tax representative may not be used by a third-country taxable person that provides electronically supplied services. A tax representative must be located in Estonia and must be accepted by the tax authorities.

**Deregistration.** A taxable person that ceases to be eligible for VAT registration must deregister (that is, it must notify the VAT authorities that it must cease to be registered). A taxable person may also request deregistration if its taxable turnover drops below the annual registration threshold. However, deregistration is not compulsory in these circumstances.

The tax authorities can delete a taxable person that is not performing business activities from the VAT register.

**Late registration penalties.** Penalties and interest are assessed for late registration for VAT.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are subject to VAT. The term “exempt supplies” refers to supplies of goods and services that are not subject to tax and that do not give rise to a right of input tax deduction (see Section F).

The following are the VAT rates in Estonia:

- Standard rate: 20%
- Reduced rate: 9%
- Zero rate (0%)

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

The following tables list basic examples of exempt supplies of goods and services and supplies of goods and services that are taxed at reduced or zero rates of VAT (these lists are not exhaustive and include exemptions).

### Examples of exempt supplies of goods and services

Health care services  
 Real estate transactions  
 Financial services  
 Insurance and reinsurance services  
 Insurance mediation  
 Educational services  
 Lotteries and gaming  
 Postal services  
 Learning materials related to education

### Examples of supplies of goods and services taxable at 0%

Exports of goods  
 Listed exported services  
 Intra-Community supplies of goods  
 Seagoing vessels, equipment, spare parts and fuel for seagoing vessels

### Examples of supplies of goods and services taxable at 9%

Medical equipment and products for handicapped people  
 Books (excluding textbooks and workbooks related to the national curriculum)  
 Periodicals  
 Accommodation

**Option to tax.** A taxable person may opt to apply VAT to certain transactions that would otherwise be exempt from VAT if the taxable person has previously notified the regional tax authority in writing of its opting for taxation. The option must have been notified during the same tax period as the taxed supply or in an earlier period. The option to tax must be applied continuously for at least two years.

The following supplies are eligible for the option to tax:

- The leasing or letting of immovable property (or parts thereof), except dwellings.
- Immovable property and parts thereof, except dwellings.
- Investment gold under certain conditions.

- Financial services, including the following:
  - The supply of securities.
  - Deposit transactions for the receipt of deposits and other repayable funds from the public.
  - Borrowing and lending operations, including consumer credit, mortgage credit, leasing transactions, settlement, cash transfer and other money transmission transactions.
  - Issuance and administration of noncash means of payment (for example, electronic payment instruments, traveler's checks and bills of exchange).
  - Guarantees and commitments and other transactions creating binding obligations to persons.
  - Transactions carried out for their own account or for the account of clients in traded securities provided in the Securities Market Act and in foreign exchange and other money market instruments, including transactions in checks, exchange instruments, certificates of deposit and other such instruments.
  - Transactions and acts related to the issuance and sale of securities.
  - Money brokering and portfolio management.

The following services are taxable at a 20% rate, which is not optional:

- Provision of advice to clients on issues concerning economic activities and transactions and actions related to the merger or division of companies or participation therein.
- Collection, processing and transmission of credit information.

Other financial transactions that are not exempt from VAT, as well as factoring, are taxable at a rate of 0% or 20%, depending on the status of the customer.

The supply of insurance services, including insurance services provided by insurance brokers and insurance agents and reinsurance, are exempt services with no option to tax.

## E. Time of supply

The time when VAT becomes due is called the "time of supply" or "tax point." The basic time of supply for goods and services is the earliest of the following events:

- The delivery of goods
- The performance of services
- Receipt of full or partial payment

Effective from 1 January 2011, all taxable persons whose annual turnover does not exceed €200,000 can opt for cash-basis VAT accounting instead of accrual-basis accounting. Before 2011, cash-basis VAT accounting was available only to sole proprietors.

**Imported goods.** The time of supply for imports is when the goods clear customs.

**Reverse-charge services.** Estonian businesses must self-assess VAT on taxable services purchased from abroad, using the reverse-charge mechanism. Under the reverse-charge mechanism, the purchaser self-assesses VAT at the appropriate rate. The self-assessed tax is treated as input tax and recovered (depending on the purchaser's partial exemption status; see Section F). The reverse charge



does not apply to supplies to private individuals who are not registered for VAT.

Effective from 1 January 2011, the reverse charge applies to certain domestic transactions between taxable persons that involve supplies related to immovable property and metal waste.

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

- When the Estonian buyer receives the service
- When the Estonian buyer makes a payment

## **F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is VAT charged on supplies of goods and services used for business purposes. Input tax is generally recovered by deduction from output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied in Estonia, VAT paid or payable on imported goods and VAT self-assessed for reverse-charge services received outside Estonia.

A valid tax invoice or customs document must generally support a claim for input tax. Invoice or customs documents are not needed if the reverse-charge mechanism is applied and other evidence is presented.

Input VAT is deductible if an invoice has been issued and the goods or services have been supplied or if full or partial payment is made.

For imported goods, input VAT is deducted on the basis of a customs declaration.

An invoice may be issued on paper or, subject to acceptance by the acquirer of goods or the recipient of services, by electronic means.

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

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### **Examples of items for which input tax is nondeductible**

Business and employee entertainment  
Business use of home telephone

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

Hotel accommodation for a business trip  
Business gifts valued at less than €10  
Parking  
Mobile phones  
Travel expenses  
Automobiles and fuel

**Partial exemption.** Input tax directly related to making exempt supplies is generally not recoverable. If an Estonian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as “partial exemption.”

In Estonia, the amount of input tax that a partially exempt business recovers may be calculated using either of the following methods:

- General pro rata
- A two-stage method, which includes a direct attribution of input tax

The general pro rata method is based on the percentage of taxable and total supplies in the preceding calendar year. The recovery percentage is used provisionally during the current year and is adjusted at the end of the year based on the actual value of taxable and total supplies made.

The two-stage calculation consists of the following stages:

- The first stage identifies input VAT that may be directly allocated to taxable and exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation is performed using the general pro rata method based on the value of supplies made.

A partial deduction is based on the proportion of taxable supplies for which input VAT deduction is allowed, made during a calendar year in Estonia and abroad, compared with the total amount of supplies made by the person during a calendar year in Estonia and abroad.

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

In Estonia, the capital goods adjustment applies to fixed assets for a period of five years. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

A capital goods adjustment is also required if a taxable person transfers immovable property used for less than 10 years and if the supply is exempt from VAT. In these circumstances, the taxable person must recalculate its entitlement to input tax paid on acquisition of the immovable property and for related goods and services. A taxable person may opt to charge VAT on the sale or leasing of immovable property (the option may not be applied to the sale or lease of living space). If the transfer is subject to tax, no capital goods adjustment is required.

**Refunds.** If the amount of input tax that is deductible for a VAT period exceeds the amount of output tax that is chargeable in the same period, the taxable person has a VAT credit. The taxable person may choose to use the VAT credit to offset other tax obligations or penalties, or it may request a refund. Refunds are made within 30 days after the due date for payment. However, this period may be extended for up to 90 days if the tax authorities have justified reasons to check further the circumstances of the VAT refund application.

### **G. Recovery of VAT by nonestablished businesses**

Estonia refunds VAT incurred by businesses that are neither established nor registered for VAT in Estonia. VAT is refunded if the following conditions are satisfied:

- The taxable person is required to pay VAT as a business in its country of residence.
- An Estonian taxable person may deduct VAT under the same circumstances on the import of goods, the acquisition of goods or the receipt of services.

Effective from 1 January 2010, for businesses established in the EU, refunds are made under the terms of EU Directive 2008/9/EC. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. Refunds to non-EU claimants are made on the condition of reciprocity. Estonian VAT is refunded only to claimants established in countries that refund VAT to Estonian businesses.

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes, see the chapter on the EU, page 208.

Effective from 1 January 2010, Directive 2008/9/EC rules and principles are applied. These rules are summarized below.

VAT paid in Estonia by a foreign taxable person that is an EU business on the import or acquisition of goods, except for immovable property, and on the receipt of services used for business purposes is refunded to the foreign taxable person on the basis of an electronic refund application submitted to the Estonian tax authorities by the tax authorities of other EU member states if the following criteria are met:

- The taxable person is required to pay VAT in the home country of the person.
- VAT is refunded to the business in its country of residence under the same conditions with respect to the import of goods and the acquisition of goods or receipt of services.
- The refundable VAT amount is at least €50 for the year or €400 for a period that is longer than three months, but shorter than a calendar year.
- The application must be submitted electronically through the tax authorities of the country of residence to the Estonian tax authorities by 30 September of the year following the period of refund.

The application must be signed by a nonresident natural person or by the head of the nonresident legal entity or an authorized representative, and it must contain the number of the bank account and a note as to where and in whose name the VAT will be refunded. To obtain a refund for VAT paid on imported goods,

the applicant must include with the application proof that it has paid VAT.

**Refund application.** VAT paid in Estonia is refunded to an EU taxable person on the basis of an electronic refund application submitted to the Estonian tax authorities by the tax authorities of the other EU member state.

A nonestablished business from a non-EU state may request a refund of VAT by filing application form KMT. The application may be completed in Estonian or in English. It may be submitted by the nonestablished business or by an authorized representative to the following address:

Estonian Tax and Custom Board  
Northern Regional Tax Center  
Endla 8 15177  
Tallinn  
Estonia

The application for a refund of tax must be accompanied by the following documents:

- Original invoices to support the claim for VAT refund
- For an authorized representative, a power of attorney
- A certificate issued within the preceding 12 months by the tax authorities in the country where the claimant is established, indicating that the claimant was a taxable person when it made the purchases

For non-EU taxable persons the following conditions must be met:

- The amount requested must be at least €320 for the year.
- The country where the applicant business is resident must refund VAT to Estonian residents under the same conditions.

The VAT authorities refund VAT claimed within six months after the date on which the application is filed.

## H. Invoicing

**VAT invoices and credit notes.** A taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. Invoices are not automatically required for retail transactions unless requested by the customer. A VAT invoice is required to support a claim for input tax deduction.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply if the taxable value changes (for example, when goods are returned goods or a discount is granted). The credit note must refer to the original VAT invoice for the supply that is being amended.

**Proof of exports.** Estonian VAT is not chargeable on exports of goods. An export supply must be accompanied by evidence confirming that the goods have left Estonia. Suitable evidence includes the customs export declaration, the seller's invoice, proof of payment and the purchase invoice.

Documents that certify the provision of zero-rated services include a written service agreement or written letter of intent, the purchase invoice and proof of payment.

**Foreign-currency invoices.** If an invoice is issued in a foreign currency, the amount of VAT must be converted to euros (€), using the official exchange rate quoted by the European Central Bank on the date of the transaction.

## I. VAT returns and payment

**VAT returns.** Estonian taxable persons must file VAT returns monthly. Returns must be filed by the 20th day of the month following the end of the tax period. Payment in full is required on the same date. VAT return liabilities must be paid in euros.

The Estonian tax authority may extend the term for a refund of VAT by up to 90 calendar days (30 days at a time).

**Penalties.** Interest at a rate of 0.06% per day is charged on amounts of VAT underpaid or paid late. In addition, a person is subject to a fine of up to €3,200. In addition, the penalties are subject to income tax at a rate of 21/79 as nonbusiness-related expenses.

## J. EU declarations

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

In Estonia, INTRASTAT declarations are required only from taxable persons whose total annual value of trade from and to EU countries exceeds the statistical threshold in the year preceding the accounting period.

For 2011, the threshold for INTRASTAT Arrivals is €130,000, and the threshold for INTRASTAT Dispatches is €90,000.

INTRASTAT Arrivals and INTRASTAT Dispatch reports are filed monthly and must be submitted by the 10th working day of the month following the tax period. If a person that is required to submit an INTRASTAT report has carried out no intra-Community trade in a previous taxable period, a “zero” INTRASTAT report must be filed.

**EU Sales Lists.** An Estonian taxable person who has made intra-Community supplies of goods or services during a tax period, or who has transferred goods as a reseller in a triangular transaction during a tax period, must submit a report on its intra-Community supplies of goods and services (Form VD) together with the VAT return to the tax authority by the 20th day of the month following the end of the tax period.

If no intra-Community supplies were made in the relevant period, no report is required.

If ownership in a new means of transport is transferred to a person in another EU country and if the means of transport will be transported to that EU country, a copy of the sales invoice must be submitted together with the report.

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

## European Union

The chapter below summarizes the value-added tax (VAT) rules for the European Union (EU) as a whole. This book also contains chapters summarizing the VAT systems in each of the EU member states. Ernst & Young has VAT contacts located in each of the EU member states. These contacts are listed in the respective chapters for their countries. In addition to the VAT contacts located in the EU member states, the persons listed below work for Ernst & Young's Indirect Tax practices in Germany and Ireland.

### Indirect tax contacts

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### A. The territory of the European Union

The European Union (EU) currently consists of the following 27 member states:

Austria	Germany	Netherlands
Belgium	Greece	Poland
Bulgaria	Hungary	Portugal
Cyprus	Ireland	Romania
Czech Republic	Italy	Slovak Republic
Denmark	Latvia	Slovenia
Estonia	Lithuania	Spain
Finland	Luxembourg	Sweden
France	Malta	United Kingdom

On 1 May 2004, 10 countries joined the EU. They are Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic and Slovenia. Romania and Bulgaria joined on 1 January 2007. All of these countries are sometimes referred to as “new member states.”

### B. The Single Market

On 1 January 1993, the Single Market was introduced in the EU. Under the rules of the Single Market, goods may move freely between member states without hindrance, including customs controls. As a result, the concepts of “import” and “export” no longer apply to cross-border trade between member states.

**Imports and exports.** In the EU, the term “export” applies to the supply of goods exported from a member state to any country outside the EU (also referred to as Third Countries). The term “import” now applies to goods imported into a member state from any country outside the EU.

After goods are imported into the EU, they are in “free circulation,” which means that they may travel within the EU without further payment of customs duties or further border controls.

**Intra-Community supplies of goods to nontaxable persons.** “Nontaxable persons” are any persons or legal entities that are not registered for VAT. In the EU, VAT is generally charged on supplies of goods made to nontaxable persons using the “origin

principle,” which means that VAT applies in the member state where the supplier of the goods is established. Consequently, the VAT rate charged is the rate that applies to the goods in the supplier’s member state, not the rate that would apply in the customer’s member state. For example, if a Danish tourist buys a dress in a shop in Paris, she pays VAT at the French standard rate of 19.6%, not at the Danish standard rate of 25%, even if the dress is subsequently “exported” to Denmark. However, exceptions to this rule apply for “distance sales,” sales of “new means of transport” and sales to “nontaxable legal persons” (see below).

**Distance sales.** A “distance sale” is a sale of goods dispatched or transported by (or on behalf of) the supplier from one member state to specific types of customers in another member state who are not registered for VAT, such as nontaxable persons. Distance sales commonly include sales of goods made by mail-order catalog and goods sold online via the Internet.

Nontaxable persons generally bear VAT as a cost. Because they do not charge VAT on sales, they are not permitted to offset VAT paid on purchases. Consequently, for nontaxable persons, the rate of VAT charged directly affects the cost of the goods purchased by them. With the introduction of the Single Market, it was feared that the application of the origin principle of taxation could lead to distortions of competition and the loss of VAT revenues for some member states, as nontaxable persons would have an incentive to purchase goods from suppliers located in the member state with the lowest VAT rate. Consequently, special rules were introduced for “distance sales” made to nontaxable persons (and certain taxable persons who are not registered for VAT in their home countries).

If the total value of supplies by a distance seller to customers in another member state exceeds a certain turnover threshold, the distance seller must register for VAT in that other member state (known as the “country of destination”). VAT is then chargeable on the supply of the goods in the country of destination, at the rate applicable in that country. The relevant threshold applicable in each member state is provided in the member state’s respective chapter.

Distance sellers may also opt to be taxed in the country of destination of the goods even if their sales do not exceed the distance-selling threshold.

**Intra-Community trade between taxable persons.** A “taxable person” for the purpose of intra-Community trade is generally any person or legal entity that is registered for VAT in the EU. Because no customs controls exist between member states in the Single Market, intra-Community transactions between taxable persons are no longer termed “imports” and “exports” (see *Imports and exports*). Instead, they are referred to as “intra-Community acquisitions” and “intra-Community supplies.”

*Intra-Community supplies.* In general, VAT is charged on the “destination principle” on cross-border supplies of goods made between taxable persons. Under this principle, VAT is not chargeable in the member state from where the goods are supplied (known as the “member state of dispatch”), but is chargeable in the member state where the goods are delivered (known as the “member state of arrival”).

An intra-Community supply of goods is zero-rated or exempt with credit, depending on the legislation in the member state of dispatch. This means that no VAT is chargeable, but the supplier is entitled to deduct VAT paid on purchases connected with the supply. The supplier must be able to prove that the goods have been dispatched to a taxable person in another member state. The supplier must also quote the customer's EU VAT registration number, including the country prefix (for example, BE for Belgium). The evidence required varies among member states. Information about the evidence required in each member state is provided in the chapters of the respective EU countries.

*Intra-Community acquisitions.* An intra-Community acquisition is an acquisition of goods from another member state by a taxable person. An intra-Community acquisition is taxable in the member state of arrival at the rate of VAT applicable in that country. Because no customs controls exist, the person making the acquisition must account for the VAT due, generally using "reverse charge" accounting (see *Reverse-charge mechanism*).

If a business makes an intra-Community acquisition of goods in a member state where it is not registered for VAT, it may be required to register there.

**Reverse-charge mechanism.** Under the "reverse charge" provision, an acquirer that is a taxable person self-assesses the VAT due on a supply at the VAT rate applicable to the transaction in the member state of arrival. The acquirer then declares the tax due as output tax (VAT on sales). If the acquirer is entitled to recover the VAT on the acquisition as input tax (that is, VAT on purchases), the acquirer may offset the input tax at the same time as declaring the output tax. Consequently, an acquirer that deducts input tax in full does not actually pay any VAT in connection with an intra-Community acquisition.

**Branch transfers.** A transfer of goods between different parts of the same legal entity is not generally treated as a supply for VAT purposes (for example, no VAT is charged on a transfer of goods from a factory to a warehouse owned by the same company within the same member state). However, this rule does not apply to transfers of own goods across borders within the EU. A taxable person is deemed to make an intra-Community supply and an intra-Community acquisition if the person transfers goods between different parts of a single legal entity that are located in different member states. For example, a deemed acquisition may occur when goods are moved between branches of the same company located in different countries or when goods are stored in a warehouse in a different country after being manufactured but before being sold. If a deemed acquisition occurs, the person transferring the goods may need to register for VAT in both the member state of dispatch and the member state of arrival. Further information about the requirement to register for VAT is listed in the chapters of the respective EU countries.

Certain transfers are excluded from the provision discussed above, either because they are deemed not to be acquisitions (see *Transfers deemed not to be acquisitions*) or because the goods are exempt from VAT.



**Transfers deemed not to be acquisitions.** Not all intra-Community movements of own goods qualify as acquisitions. Exceptions include the following transfers:

- Goods to be installed or assembled for a customer in another member state
- Goods transported to another member state under the distance-selling rules
- Goods that will be exported outside the EU from another member state or dispatched to another member state (that is, the goods are temporarily in the second member state)
- Goods sent to another member state for processing (provided that the goods are returned after processing)
- Goods temporarily used in another member state for a supply of services made there
- Goods used temporarily (that is, for less than two years) in another member state, provided that customs duty relief would be available if the goods were imported from outside the EU
- Goods acquired from a person not registered for VAT, unless the goods acquired are a “new means of transport” (see *New means of transport*) or are subject to excise duties (such as alcohol and tobacco products)

**Triangulation simplification (ABC transactions).** A “chain transaction” involves goods that are sold to different parties in a series of transactions, but are delivered directly from the first vendor in the chain to the final purchaser in the chain.

If three taxable persons that are registered for VAT in different member states enter into a chain transaction, special “triangulation” simplification rules may apply. These transactions are sometimes referred to as “ABC transactions.” For example, manufacturer A in Spain sells goods to distributor B in France but delivers them directly to B’s customer, retailer C in Italy. In these circumstances, the triangulation simplification rules may be applied. Under the normal intra-Community rules, B makes an intra-Community acquisition in C’s country in these circumstances. However, under the simplification rules, B may choose not to register for VAT in C’s country and, instead designate C as being responsible for the VAT due. In addition, B must indicate to A that the simplification rules are being applied and include this information on its invoice to C. In some member states, B may also be required to notify the VAT authorities that it has chosen to use the simplification rule rather than register for VAT there. Following case law of the European Court of Justice, careful consideration must be given to which party is responsible for transporting the goods to determine whether the simplification may be used because simplified triangulation applies only if the cross-border transport of the goods is arranged between parties A and B.

In some member states, the triangulation simplification rules do not apply if more than three parties are involved in the chain.

**Acquisitions by exempt persons, nontaxable legal persons and flat-rate farmers.** Exempt persons, nontaxable legal persons and farmers who account for VAT under a flat-rate scheme are not treated as taxable persons. Consequently, goods acquired by these persons are generally taxed according to the origin principle, that is, in the member state of dispatch.

However, if a person in one of these categories makes intra-Community acquisitions in excess of €10,000 a year (or a higher threshold set by the member state), it must register for and pay VAT on its acquisitions in the member state of arrival in the same way as taxable persons, that is, by using the reverse-charge mechanism. However, because a nontaxable or exempt person does not generally deduct input tax, VAT due on intra-Community acquisitions must generally be paid to the VAT authorities. These persons may also choose to be treated as taxable persons even if their acquisitions do not exceed the turnover threshold.

**New means of transport.** All supplies of “new means of transport” are taxed using the destination principle, that is, in the member state of arrival, regardless of the status of the vendor or acquirer. Consequently, any person that acquires a new means of transport (see below) from another member state must account for VAT. Taxable persons account for VAT in the same way as for all other intra-Community acquisitions, that is, by using the reverse-charge provision. Nontaxable persons must pay VAT due to the VAT authorities.

The following are considered to be “means of transport:”

- Boats with a length exceeding 7.5 meters
- Aircraft with a take-off weight exceeding 1,550 kilograms
- Motorized land vehicles with a capacity exceeding 48 cubic centimeters or with power exceeding 7.2 kilowatts that are intended to transport persons or goods

For boats and aircraft not to be treated as “new,” both of the following conditions must be met:

- The supply of the goods must be more than three months after the date of their first entry into service.
- They must have sailed more than 100 hours in the case of boats, and flown more than 40 hours in the case of aircraft.

For cars not to be treated as “new,” both of the following conditions must be met:

- They must be supplied more than six months after the date of first entry into service.
- They must have traveled more than 6,000 kilometers.

**Excise products.** The supply of excise products is always taxable in the member state of destination. As a result, nonresident suppliers of excise products may be required to register for VAT there.

**Intra-Community transportation of goods.** VAT is charged on the intra-Community transport of goods using special rules. VAT is charged by the supplier on transport services provided to nontaxable persons in the member state where the transportation begins.

For supplies of intra-Community transport services provided to taxable persons, the supplier does not charge VAT if the taxable customer is registered for VAT in a different member state. Instead, the taxable person accounts for VAT in the member state where it is established, using the reverse-charge mechanism.

### C. Services

Before 2010, services were generally subject to VAT in the country where the supplier was established. Effective from 1 January 2010, under new rules on the place of supply of services, business-

to-business (B2B) supplies of services are taxed where the customer is located, rather than where the supplier is located. For business-to-consumer (B2C) supplies of services, the place of taxation continues to be where the supplier is established. However, in certain circumstances, the general rules for supplies both to businesses and to consumers do not apply, and specific rules apply to reflect the principle of taxation at the place of consumption. These exceptions concern services such as restaurant and catering services, hiring of means of transport, cultural, admission to sporting, scientific and educational services, and telecommunications, broadcasting and electronic services supplied to consumers.

In general, effective from 1 January 2010, the following rules apply to services rendered by a taxable person established in the EU:

- If the customer is established in the same member state as the supplier, the supplier charges VAT on the service at the rate applicable in the supplier's member state.
- If the customer is a nontaxable person established in another member state, the supplier charges VAT on the service at the rate applicable in the supplier's member state.
- If the customer is a taxable person established in another member state, the supplier does not charge VAT. The taxable customer accounts for VAT due using the reverse-charge provision at the rate applicable in the customer's member state.
- If the customer is established outside the EU, the supplier does not charge VAT. The customer may be required to account for VAT in the country where it is established, depending on that country's VAT law.

The following EU VAT rules apply if a non-EU person supplies services:

- If the customer is a nontaxable person, the supplier does not charge EU VAT, unless the "use and enjoyment" provision applies (see *Use and enjoyment*). However, the supplier may be required to charge VAT in its own country, depending on that country's VAT law.
- If the customer is a taxable person established in the EU, the supplier does not charge EU VAT. The taxable customer accounts for EU VAT due using the reverse-charge provision at the rate applicable in the customer's member state. The supplier may also be required to charge VAT in the non-EU country where it is established, depending on that country's VAT law.
- If the customer is established outside the EU, the supplier does not charge EU VAT, unless the "use and enjoyment" provision applies (see *Use and enjoyment*). However, the supplier may be required to charge VAT in its country, depending on that country's VAT law.

**Use and enjoyment.** The above rules may lead to nontaxation or to double taxation if either party is not established in the EU. To help avoid these effects, additional rules may apply that either allow a service that is "used and enjoyed" in the EU to be taxed or prevent a service that is "used and enjoyed" outside the EU from being taxed. Before 2010, member states could apply the use and enjoyment rules to the following services:

- The hiring out of a means of transport
- Telecommunications services supplied by a taxable person established outside the EU to a nontaxable person established in the EU

With a few exceptions, effective from 1 January 2010, member states may apply the use and enjoyment provisions to almost any type of service if they choose to do so.

If a service is taxed in the EU under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every member state where it has customers that are not taxable persons. For the information regarding the rules relating to VAT registration, see the chapters on the respective countries of the EU.

**Electronic services.** VAT rules, which took effect on 1 July 2003, apply to supplies of “electronic services.” “Electronic services” include services such as supplies of downloaded software and music, pay-per-view television broadcasts, information services and distance-learning services supplied by computer.

The following VAT rules apply to electronic services:

- EU taxable persons that supply electronic services charge VAT to taxable persons established in the same member state and to nontaxable persons established anywhere in the EU, using the origin principle (that is, VAT applies at the rate in force in the member state where the supplier is established).
- EU taxable persons that supply electronic services do not charge VAT to taxable persons in other EU member states or to customers outside the EU.
- EU taxable persons that receive a supply of electronic services from another EU member state or from outside the EU must account for VAT under the reverse-charge provision (that is, self-assess VAT).
- Non-EU suppliers that provide electronic services to nontaxable persons are required to register for VAT in the EU and charge VAT based on the destination principle (that is, at the rate in effect in the customer’s member state).

A non-EU service provider may decide whether to register for VAT in each member state where it has nontaxable customers or it may use a simplification measure. The simplification measure allows a non-EU service provider to register for VAT in a single member state to fulfill its administrative obligations (however, VAT remains chargeable to nontaxable customers at the rate in effect in each customer’s country). If the simplification measure is used, the non-EU service provider may only recover any input tax incurred through the EU 13th VAT Directive scheme (see Section E).

Effective from 1 January 2015, new rules on the place of B2C supplies of electronic services will be introduced. Effective from that date, these services will be taxed in the country where the consumer is established. As a result, effective from 1 January 2015, EU taxable persons that supply electronic services will have to charge VAT to nontaxable persons established anywhere in the EU, using the destination principle. EU suppliers will be permitted to discharge their VAT obligations using a “one stop” scheme, which will enable them to fulfill their VAT obligations

(VAT registration, reporting and payment) in their home country, including for services provided in other member states where they are not established. Accordingly, EU suppliers will be able to apply a simplification measure similar to the one that is already in place for non-EU providers of electronic services (see above).

#### **D. EU VAT rates**

EU member states may apply a standard rate of VAT and one or two reduced rates. No higher rates may apply. The standard rate must be at least 15%. Reduced rates may not be less than 5% and may apply only to certain goods and services listed in the EU VAT Directive (Directive 2006/112/EC) and, provisionally, for a small range of labor-intensive services. As an exception to the reduced rate rule, member states may continue to apply a reduced rate lower than 5% or to apply a reduced rate to goods not listed in Directive 2006/112/EC if such rates were in force in that country on 1 January 1991 or if the rate was agreed on at the time of the country's accession to the EU. Special reduced rates may also apply in certain territories.

Directive 2006/112/EC sets out which supplies of goods and services may be exempted when supplied within the territory of the member state. Exempt supplies do not carry a right to deduct related VAT on purchases (known as input tax).

The European Commission periodically publishes the VAT rates that apply in the 27 member states and provides examples of the goods and services that benefit from reduced rates in the EU (the list with rates effective as of 1 January 2009 (DOC/2401/2009 - EN) is available from the Commission's website at [http://ec.europa.eu/taxation\\_customs/taxation/vat/how\\_vat\\_works/rates/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/rates/index_en.htm).

#### **E. Recovery of VAT by nonestablished businesses**

Every EU member state must refund VAT incurred by businesses that are neither established nor registered for VAT in that member state. A nonestablished business may claim VAT to the same extent as a VAT-registered business in the member state.

For businesses established in the EU, refunds are made under the terms of Council Directive 2008/9/EC. All member states must refund VAT to eligible claimants established in other member states. Effective from 1 January 2010, the procedure for reimbursement of VAT incurred by EU businesses in member states where they are not established is replaced by a new fully electronic procedure, thereby ensuring a quicker refund to claimants.

For businesses established outside the EU, refunds are made under the terms of the EU 13th VAT Directive. All member states must refund VAT to claimants established outside the EU. However, member states may apply a condition requiring the non-EU country where the claimant is established to provide reciprocal refunds with respect to its own turnover taxes.

**Who is eligible.** To be eligible for a refund under Council Directive 2008/9/EC, the claimant must satisfy the following conditions:

- It must be a taxable person that is not established in the member state of refund.
- It must not have the seat of its economic activity, a fixed establishment from where business transactions are effected, a

domicile or a residence in the member state where the refund is requested.

- It must not make supplies of goods or services in the member state of refund, with the exception of transport and transport-related services and supplies of goods and services where the customer is the taxable person (reverse charge; see Section B).

To be eligible for a refund under the EU 13th VAT Directive, the claimant must satisfy the following conditions:

- It must carry out activities that would make it eligible to be a taxable person in the EU if the activities were conducted there.
- It must not have an establishment, center of economic activity, registered office or place of residence in the member state where the refund is requested.
- It must not make supplies of goods or services in the member state where a refund is requested, with the exception of transport and transport-related services and supplies of goods and services where the customer is the taxable person (reverse charge; see Section B).
- If a VAT refund is claimed in any member state that requires reciprocal VAT refunds for its citizens, the country where the claimant is established must satisfy this condition.

**Minimum claims.** Under Council Directive 2008/9/EC, the minimum claim period is three months, and the maximum period is one year. The minimum claim for a period of less than a year is €400. For an annual claim, the minimum amount is €50. Member states may impose higher limits. The minimum claim limits for non-EU businesses may not be lower than for EU businesses. The claim limits applied by the individual countries of the EU are indicated in the respective chapters for such countries.

**Documentation.** Effective from 1 January 2010, under Council Directive 2008/9/EC, claimants established in the EU must electronically submit applicable documentation through an electronic portal set up by the member state where they are established. The refund application must contain the following:

- The applicant's name, contact details, nature of the business and bank details
- For each member state separately, a list of the suppliers, nature of the purchases, purchase invoices, import documents and VAT amounts
- On request by the member state of refund, original invoices or import documents, if the taxable amount is €1,000 or more (€250 for fuel purchases)

Under the EU 13th VAT Directive, a non-EU claimant must submit the following applicable documentation to the relevant VAT office in the member state where a refund is requested (the relevant offices are listed in the chapters dealing with the individual countries of the EU):

- The standard application form, which is available in all official EU languages and in all member states. However, the form must generally be completed in the language of the member state where the refund is requested.
- Proof of entitlement, which may include a certificate issued by the tax authorities in the country where the claimant is established (required annually).

- Original invoices, import documents, bills, vouchers, receipts or customs clearance forms supporting the amounts of VAT claimed.
- Documents appointing a tax representative in countries where that is required.

**Time limits.** Under the 13th VAT Directive, claims by non-EU businesses must generally be submitted within six months after the end of the calendar year, that is, by 30 June of the following year for most member states. This deadline is generally strictly enforced. However, certain exceptions exist. The deadlines applied by the individual countries of the EU are indicated in the countries' respective chapters.

Under Council Directive 2008/9/EC, the deadline for the electronic filing of the refund application is 30 September of the calendar year following the refund period.

Refunds are generally paid within six months after the member state receives the claim. Some member states pay interest on VAT amounts refunded outside this time limit (for further details, see the chapters dealing with the individual countries of the EU).

**Appeals.** All member states provide an appeal procedure if a refund is denied.

## F. EU declarations

**INTRASTAT.** INTRASTAT is a system of reporting related to intra-Community transactions made by taxable persons. It was introduced on 1 January 1993 to allow the collection of statistical information on intra-Community trade in the absence of customs controls at the borders. EU businesses must submit information on a periodic basis to the VAT authorities if they make either intra-Community supplies or intra-Community acquisitions of goods in excess of certain limits. Penalties may apply to missing and late INTRASTAT reports and to errors in reporting. Further information on the requirements for INTRASTAT reporting is provided in the chapters dealing with the individual countries of the EU. Effective from 1 January 2010, a new measure requires businesses to file INTRASTAT returns for cross-border services provided to business customers in other EU member states (for further details, see the chapters dealing with the individual countries of the EU).

**EU Sales Lists.** Taxable persons that make intra-Community supplies must submit EU Sales Lists (ESLs) to the VAT authorities quarterly. Penalties may apply to missing and late ESL reports and to errors in reporting. Further information on the requirements for ESL reporting is provided in the chapters dealing with the individual countries of the EU.

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## Finland

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Arvonlisävero
Date introduced	1 June 1994
European Union (EU) member state	Yes
Administered by	Finnish Ministry of Finance and National Board of Taxes (Verohalli) ( <a href="http://www.vero.fi">http://www.vero.fi</a> )
VAT rates	
Standard	23 %
Reduced	9% and 13%
Other	Zero-rated, exempt and exempt with credit
VAT number format	1234567-8 (used for domestic trade, imports and exports) FI12345678 (used for intra-Community trade)
VAT return periods	Monthly (or in certain cases quarterly or annually)
Thresholds	
Registration	€8,500 (not applicable to nonestablished businesses and to municipalities)
Distance selling	€35,000
Intra-Community acquisitions	
General rule	No threshold
Fully exempt businesses	€10,000
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Finland by a taxable person
- The intra-Community acquisition of goods and acquisition of services (as provided in Article 196 of EU Directive 2008/8/EY) from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in Finland (that is, services for which the recipient is liable for the VAT due)



- Reverse-charge goods purchased by a taxable person in Finland
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, Finland does not include the insular province of Ahvenanmaa (Åland Islands). However, the province is part of the Finnish and EU customs territory.

### C. Who is liable

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

The VAT registration threshold of €8,500 applies to businesses that are established in Finland or that have a fixed (permanent) establishment in Finland. The law also includes a tax relief for small businesses with a turnover of between €8,500 and €22,500 during the financial year. The tax relief is gradual. As a result, the amount of the relief decreases as turnover increases.

Special rules apply to foreign or “nonestablished” businesses that have no fixed establishment in Finland.

Under the main rule, the place of supply of services is determined by the location of the fixed establishment of the purchaser to which the services are supplied. If no such fixed establishment of a purchaser exists, the place of supply is the purchaser’s domicile. If the supplier does not have a domicile or a fixed establishment that would intervene in the rendering of the service in the country of the purchaser, the supplier must invoice the purchaser for the sale of the service without VAT. Based on the reverse-charge mechanism, the purchaser reports and pays the VAT on the supplier’s behalf. The main rule regarding the place of supply of services (Article 44 of Directive 2008/8/EY) is similar to the treatment of intangible services before 2010. However, for certain services (for example, services relating to immovable property, passenger transport, arranging of events and catering services), exceptions to the main rule exist.

**Group registration.** Group registration may be granted to taxable persons that supply exempt financial or insurance services and to other taxable persons controlled by financial or insurance companies. Group members must have close “financial, economic and administrative relationships.” All members of the VAT group must be established in Finland. However, Finnish fixed establishments of foreign entities may belong to a VAT group.

Group members are treated for VAT purposes as a single taxable person. No VAT is charged on transactions between group members. Members are jointly responsible for all VAT liabilities of the group.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Finland. A nonestablished business that makes taxable supplies in Finland is not required to register for VAT if the reverse-charge rule applies to all of its transactions. Under the reverse-charge rule, the Finnish customer is responsible for accounting for the VAT. However, a nonestablished taxable person may opt to register for VAT purposes in Finland. In such case, the reverse-charge rule no longer applies.

The reverse-charge rule applies to most supplies of goods and services. The reverse-charge rule does not apply to the following transactions:

- Supplies of goods and services to private individuals
- Supplies of goods and services to a nonestablished business that does not have a fixed establishment in Finland and has not opted to be registered for VAT in Finland
- Distance sales in excess of the annual threshold
- Supplies of passenger transport, educational or scientific services, cultural, entertainment or sporting events and other similar services, as well as services directly related to arranging such events

If the reverse charge does not apply, the nonestablished business must register for VAT in Finland. The VAT registration threshold does not apply to supplies made by a nonestablished business that does not have a fixed establishment in Finland.

When registering for VAT in Finland a foreign entrepreneur must fill in an explanatory form concerning the business activities conducted by it in Finland. The explanatory form is an enclosure to the VAT registration. The Finnish tax authorities are likely to use the information provided on the form in its determination of whether the foreign entrepreneur has a permanent establishment in Finland.

A nonestablished business that is involved in intra-Community trade in Finland must notify the Finnish VAT authorities of its activities (see the chapter on the EU, page 208). Consequently, even if the business does not have to register for VAT (for example, because the reverse charge applies to its sales), it must still notify the Finnish VAT authorities of the fact that it has begun activities. It must also report details of its intra-Community trade to the VAT authorities on a monthly basis. The procedure for registering for the “notification duty” is the same as for general VAT registration.

Alternatively, a nonestablished business may opt to register for VAT. If a nonestablished business opts to register for VAT, it may recover Finnish input VAT more quickly through its periodic tax returns. Effective from the tax period beginning on 1 January 2010, instead of a VAT return, the taxpayer must file a periodic tax return that contains VAT information and information regarding other taxes reported through the “tax account” (see Section I).

**Tax representatives.** A nonestablished business that must register for VAT in Finland is not required to appoint a tax representative, but it may choose to do so. In practice, many nonestablished businesses appoint tax representatives to deal with correspondence from the Finnish VAT authorities, because it is normally written in Finnish or Swedish.

However, if a nonestablished business opts to register for VAT in Finland when it is not required to do so (for example, because the reverse charge would apply to its transactions), it must appoint a tax representative resident in Finland. This obligation applies only to businesses that do not have a domicile or a fixed establishment in the EU. The Finnish VAT authorities must approve the tax representative. The representative is not liable for any VAT due.

**Late-registration penalties.** No specific penalty is levied for late VAT registration in Finland. However, if the late registration results in the late submission of VAT returns or the late payment of VAT, penalties are assessed for these errors.

**Reverse charge in domestic trade.** The reverse-charge mechanism is also applied to the following two types of domestic sales:

- Sales of emission rights
- Sales of construction services

If a purchaser registered for VAT in Finland purchases emission rights, the purchaser must pay the tax, effective from 1 August 2010.

The reverse charge is applied to the domestic supply of construction services (also labor leasing for construction work). The reverse-charge rules for construction services are effective from 1 April 2011. The reverse-charge mechanism is applied to supplies of construction work with respect to immovable property in accordance with specific requirements. The nature of the service and the status of the buyer are decisive in determining whether the supplied service falls under the reverse-charge mechanism. The condition for the buyer is that the buyer is a business engaged in the sale of building services on an ongoing basis.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction for related expenditure (see Section F). Zero rate supplies can also be classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Examples of exempt with credit supplies include intangible services supplied to another taxable person established in the EU or to a recipient outside the EU (see the chapter on the EU, page 208).

The following are the current VAT rates in Finland:

- Standard rate: 23%
- Reduced rates: 9% and 13%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Land and buildings

Financial transactions

Insurance

Education (as defined by law)

Health and welfare

Transfers of copyright ownership

Universal postal services supplied by universal postal service providers

**Examples of goods and services taxable at 0%**

Exports of goods

**Examples of goods and services taxable at 9%**

Cinema

Sporting services

Books

Medicine

Passenger transport

Accommodation

Compensation from copyrights received by a copyright organization that represents the copyright holders

Newspapers and periodicals sold by subscription for a minimum of one month (effective from 1 January 2012)

**Examples of goods and services taxable at 13%**

Most foodstuffs including restaurant and catering services (food served at restaurants)

Animal feed

Drinking water

**E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply is the month in which the goods are delivered or the services are performed.

During the accounting year, a taxable person may account for VAT on the basis of invoices issued and received. At the end of the accounting year, the VAT reporting must be adjusted to follow the basic time of supply (that is, on the basis of goods delivered and services performed).

**Prepayments.** The time of supply for an advance payment or prepayment is when the payment is received by the supplier (even if the supplier has not yet issued an invoice or made the supply).

**Intra-Community acquisitions.** The basic time of supply for an intra-Community acquisition of goods is the month following the month in which the goods are received (that is, when the acquisition occurs). However, if the supplier issues an invoice in the month in which the goods were received, the time of supply is the month when the acquisition takes place.

**Imported goods.** The time of supply for imported goods is the date of the written customs clearance confirming that the imported goods are in “free circulation” in the EU following their direct importation or their release from a customs regime. This is not necessarily the date on which the goods are imported.

**Continuous delivery.** The time of supply of continuous delivery is the month in which a settlement period ends. A service for which invoicing is based on time spent rather than on amounts received is considered to be continuous delivery.

**F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax

is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Finland, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and acquisition of services (as provided in Article 196 of EU Directive 2008/8/EY) and reverse-charge goods and services.

A valid tax invoice that fulfills the requirements of the Finnish VAT invoicing rules (see Section H) or a customs document must generally accompany a claim for input tax.

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

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

#### **Examples of items for which input tax is nondeductible**

Business entertainment

Purchase, lease, hire and maintenance of passenger cars and cars for mixed purposes (that is, cars designed and equipped for carrying passengers and goods), unless used exclusively for business use

Private use of trucks and vans

Fuel for private cars

Private expenditure

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

Hotel accommodation (however, VAT on hotel breakfast is not deductible)

Books

Advertising

Staff entertainment (subject to limitations)

Home and mobile telephone bills (portion of private use is nondeductible)

Attendance at conferences, seminars and training courses

Fuel and maintenance of vans, to the extent used for business purposes

Public transport and taxis

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

In Finland, the amount of input tax that a partially exempt business may recover is calculated in the following two stages:

- The first stage identifies the input VAT that may be directly allocated to exempt and to taxable supplies. Exempt with credit

supplies are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies is not deductible. Input tax directly allocated to taxable supplies is recoverable in full.

- The second stage prorates the remaining input tax that relates to both taxable and exempt supplies, in order to allocate a portion to taxable supplies (which may then be recovered). For example, this treatment applies to the input tax related to general business overhead. The pro rata calculation is normally based on the value of taxable supplies made compared to the total value of supplies made, but other well-founded methods of apportionment may be used.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. In Finland, special treatment for capital goods is restricted to purchases of land and buildings and to construction and renovation services.

Special rules concerning the deductions on real estate investments and the adjustment period entered into effect on 1 January 2008. The following are significant aspects of the special rules:

- Input tax on real estate investments is deducted in the VAT year in which the goods or services are acquired for taxable business purposes. The amount of input tax recovered depends on the use of the immovable property for taxable business activity. If the use of the property for taxable business activity increases or decreases, the amount of input tax recovered is adjusted. The right or obligation to adjust relates only to real estate used for business purposes.
- The adjustment period is 10 years, beginning with the year in which the construction or renovation work is completed. This period also applies to certain cases in which the real estate is taken into use after the completion of the real estate investment (that is, cases in which the real estate is not taken into use immediately after the real estate investment has been completed). Each year 1/10 of the input VAT paid for the real estate investment is subject to adjustment.
- The annual adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the portion of taxable use of the property has increased or decreased compared with the year in which the investment was made. The annual adjustment is reported in the last periodic tax return of the calendar year in question (that is, the periodic tax return for December). Adjustments do not apply to operating costs or maintenance costs.
- If the immovable property is sold to a business, the right or liability for adjustments is transferred to the acquiring business. In some cases, a full adjustment is made instead of annual adjustments.
- The adjustment and monitoring rules also apply to tenants that have made real estate investments with respect to the leased premises. Consequently, with respect to the transfer of the adjustment obligation, the status of the tenant is comparable to the status of the owner of the immovable property.

The special rules apply to transactions or changes in taxable use that take place on or after 1 January 2008. For investments made before 2008, the adjustment period is five years and the

yearly adjustment is 1/5 of the input VAT paid for the real estate investment.

Other rules may also apply to certain circumstances, such as a sale of the real estate that is under construction.

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The Finnish VAT Act was amended, effective from 1 January 2010, with respect to the payment of VAT, the VAT reporting procedure, the VAT refund procedure and the collection of VAT. As a result of these changes, the input tax credit can now be allocated in several ways.

Under the so-called “tax account” procedure, the amount of VAT that has not been used for the payment of VAT due during the tax period (that is, the input tax credit) is set off against other taxes due if needed or otherwise refunded to the taxpayer after the tax period. Alternatively, the taxpayer can allocate the amount of VAT into the tax account. This amount can be used for the payment of the VAT due in the future. As a result of the introduction of the tax account procedure, the prior VAT advance refund procedure that applies during the accounting period and the VAT refund procedure that applied after the accounting period no longer apply. For further information, see Section I.

### **G. Recovery of VAT by nonestablished businesses**

Finland refunds VAT incurred by businesses that are neither established in Finland nor registered for VAT there. A nonestablished business is allowed to claim recovery of Finnish VAT to the same extent as a VAT-registered business.

For businesses established in the EU, refund is made under the terms of the EU 8th Directive. The 8th Directive claim procedure was changed, effective from 1 January 2010. The change was based on EU Directive 2008/9/EY. The Finnish VAT Act was amended to reflect EU Directive 2008/8/EY. The amendments entered into force on 1 January 2010.

For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. Finland does not exclude claimants from any non-EU country from the refund process.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes, see the chapter on the EU, page 208.

**Refund application.** Under EU Directive 2008/9/EY, effective from 1 January 2010, the 8th Directive claim form must be filed electronically with the domestic tax authorities of the taxpayer’s country (for example, if the fixed establishment or domicile of the taxpayer is Finland, the competent tax authority is located in Finland). After a preliminary review of the claim form, the tax authorities will forward the claim form electronically to the tax authorities of the country of destination. The taxpayer must attach to the claim form scanned copies of the purchase invoices and other documents, such as importation documents with a tax base of at least €1,000. In addition, the tax authorities of the country of destination may also demand to see the original invoices and documents.

The claim form may have to contain a closer specification of the invoices and importation documents (among others, the nature of the purchased goods or services itemized to different codes).

For refund applications under the 13th Directive, the deadline for refund claims is 30 June of the year following the year in which the supply was made. The date of supply may be earlier than the date of the invoice. The deadline for claims is strictly enforced.

Claims must be submitted in Finnish, English or Swedish. The refund application must be accompanied by the appropriate documentation.

The minimum claim period is three consecutive months during the same calendar year. The maximum claim period is one year. The minimum claim amount for a period of less than a year is €400. For an annual claim, the minimum amount is €50.

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

Uudenmaan Verovirasto  
Yritysvertoimisto  
PL34  
00052 VERO  
Finland

## H. Invoicing

**VAT invoices and credit notes.** A Finnish taxable person must generally provide a value-added taxable invoice for all supplies made to other taxable persons and to all legal entities, including exports and intra-Community supplies. Invoices are also required for supplies to private persons regarding intra-Community supplies of new means of transport and distance sales.

Both sales and purchase invoices must be in accordance with the Finnish VAT invoicing rules. A purchaser of goods and services may recover the input VAT on the purchase only if it retains an invoice that fulfills the requirements. If purchase invoices do not fulfill all the requirements, the purchaser may lose the right to recover the input VAT, unless the inadequate invoice is replaced with a new (corrected) invoice.

The following information must be included in the invoice:

- Invoice date.
- A sequential number, based on one or more series, which uniquely identifies the invoice.
- The VAT identification number of the supplier. For domestic supplies, it is the business identification number while, for intra-Community supplies and supplies of services mentioned in amended Article 44 of EU Directive 2006/112/EY, it is the EU VAT number.
- The VAT identification number of the customer if the customer or buyer is liable to pay tax on goods supplied or services rendered, if the goods have been supplied as an intra-Community supply or if the service is a supply mentioned in amended Article 44 of EU Directive 2006/112/EY.
- The full name and address of the supplier and the customer or buyer.



- The quantity and nature of the goods supplied or the extent and nature of the services rendered.
- The date on which the supply of goods and services is made or completed. For an advance payment, the invoice must show the date on which the payment on account is made if such date may be determined and differs from the date of issuance of the invoice.
- The taxable amount (excluding VAT) for each VAT rate or exemption, the unit price exclusive of VAT and the amount of any discount or rebates if they are not included in the unit price.
- The VAT rate applied (for each VAT rate).
- The VAT amount payable in euros (unless the margin scheme applicable to second-hand goods, works of art, collectors' items and antiques is applied).
- If an exemption is involved or if the customer or buyer is liable to pay VAT, the basis for the exemption or the liability of the customer or a reference to the appropriate provisions of the Finnish VAT Act or the EU VAT Directive.
- If a corrected invoice (for example, a credit note) is issued, an unambiguous reference to the original invoice.

In some specific cases, the invoicing requirements are less detailed. Less-detailed invoices may be issued in the following cases:

- Invoices for amounts up to €250 (including VAT).
- Invoices relating to supplies made by certain businesses whose clients are principally private persons, such as retailers and kiosks, and hairdressers.
- Invoices regarding passenger transport or restaurant services and receipts concerning parking meters and vending machines. For these invoices, only the following information must be included:
  - The invoice date.
  - The supplier's name.
  - The supplier's VAT identification number.
  - The quantity and nature of the goods supplied or the nature of the services rendered.
  - The amount of VAT payable (at each VAT rate) or the taxable amount exclusive of VAT (at each VAT rate).

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the EU, page 208).

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

**Proof of exports and intra-Community supplies.** Finnish VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods. However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence, such as proof that the goods have left Finland. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by customs. The authorities may also approve the use of other documentation such as consignment notes (or other commercial evidence) or the import declaration of the customs destination. Depending on the party that arranges the transportation, other requirements may need to be satisfied for the VAT exemption to be allowed.

- For an intra-Community supply, the supplier must include the purchaser's valid EU VAT identification number (issued by an EU member state other than Finland) on the sales invoice and must retain commercial documentation (for example, transport documentation, consignment notes, proof of payment and proof of receipt of the goods) to show evidence of the transportation of the goods from Finland to another EU member state.

**Foreign-currency invoices.** A valid Finnish VAT invoice may be issued in a foreign currency, but the VAT amount must be converted to euros.

## I. VAT returns and payment

**Periodic tax returns.** The Finnish VAT Act was amended with respect to the payment of VAT, the VAT reporting procedure, the VAT refund procedure and the collection of VAT. The so-called "tax account" procedure entered into force on 1 January 2010. Finnish periodic tax returns (VAT returns under the prior rules) are submitted monthly or, in certain cases, quarterly or annually.

Under the "tax account" procedure, instead of a separate VAT return, the taxpayer files one periodic tax return that consists of VAT information and also information regarding other taxes reported through the tax account. In general, the periodic tax return must be filed electronically by the 12th day of the 2nd month following the return period. If the taxpayer files a periodic tax return on paper (that is, other than electronically), the due date is the seventh day of the second month following the return period. If the taxpayer's tax period is a calendar year, the due date for the tax return and payment of the tax due is the 28th day of the 2nd month following the return period. The periodic tax return is considered to be filed on time when the Finnish tax authorities receive the tax return within the prescribed period. For example, the due date for the January 2012 tax return is 7 March 2012 or 12 March 2012, depending on whether the tax return is filed on paper or electronically.

Under the tax account procedure, all of the taxes and payments are entered in a tax account maintained by the tax authority. The taxpayer must pay all the taxes due in euros by the 12th day of the month by using a certain reference number. The tax account procedure replaces the former VAT advance refund procedure that applied during the accounting period and the VAT refund procedure that applied after the accounting period. The amount of VAT that is not used for the payment of VAT due during the tax period is set off against other taxes due if needed or otherwise refunded to the taxpayer after the tax period. Alternatively, the taxpayer can retain the VAT in the tax account and use it for the payment of the VAT due in the future. Voluntary extensions of VAT reporting and payment periods to a quarter or a year are available for small companies (turnover not more than €50,000 or €25,000 per calendar year, respectively).

The supply and acquisition of services that fall under the new principal rule for the place of supply of services (Article 44 of Directive 2008/8/EY; see Section C) must be reported in the periodic tax return, effective from 1 January 2010, as well as in EU Sales Lists (ESLs; see Section J).

**Penalties.** For the late payment of VAT, interest at an annual rate of 8.5% is assessed for 2012 beginning with the day following the due date to the date of payment.

If the periodic tax return is filed late, a punitive tax increase is separately assessed at an annual rate of 20%. The minimum penalty payment is €5 per type of tax due, up to a maximum €15,000 per type of tax, or the amount of tax due, whichever is lower. This penalty is imposed even if no tax was due in an amount of €5 per type of tax. In most cases, the separate penalty payment is not imposed if a punitive tax increase is imposed.

## J. EU declarations

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

The threshold for INTRASTAT Arrivals for 2012 is €275,000.

The threshold for INTRASTAT Dispatches for 2012 is €500,000.

Finnish taxable persons must complete INTRASTAT declarations in euros.

The INTRASTAT return period is monthly. The submission deadline is the 10th business day following the return period.

A penalty is assessed for late filing or for a failure to submit a return or for the submission of an incorrect INTRASTAT return in an amount ranging between €10 and €2,500.

**EU Sales Lists.** If a Finnish taxable person makes intra-Community supplies, it must submit an EU Sales List (ESL; also called EU recapitulative statement) to the Finnish tax authorities. An ESL is not required for any period in which a taxable person does not make any intra-Community supplies. Supplies falling under Article 44 of the EU Directive must be reported on an ESL if the purchaser is located in the EU and is liable to pay the VAT on behalf of the supplier in the country where the purchaser is established.

The reporting period for an ESL is one month, effective from 1 January 2010. The due date for filing the ESL is the 20th day of the month following the month of the transaction. The ESL must be filed electronically. Subject to certain conditions, the tax authorities can allow the taxpayer to file the ESL in paper format if a request is made.

The tax authorities may impose a penalty fee from €80 to €1,700 for late or inaccurate ESLs.

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## France

(Country code 33)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	10 April 1954
European Union (EU) member state	Yes
Administered by	French Ministry of Finance ( <a href="http://www.impots.gouv.fr">http://www.impots.gouv.fr</a> )
VAT rates	
Standard	19.6%
Intermediate	7%
Reduced	2.1%/5.5%
Other	Exempt and exempt with credit
VAT number format	FR 31 8 3 2 3 7 5 8 3 1 8 4
VAT return periods	
Monthly	Turnover of more than €777,000 (delivery of goods) or €234,000 (supply of services); quarterly if the annual VAT amount due does not exceed €4,000
Quarterly (quarterly VAT returns and prepayments with annual payment)	Turnover between €81,500 and €777,000 (delivery of goods) or between €32,600 and €234,000 (supply of services)
No VAT return (no liability to VAT except on election [franchise regime] and accordingly no VAT return)	Turnover less than €81,500 (delivery of goods) or €32,600 (supply of services)
(The above thresholds, which are adjusted annually, are effective from 1 January 2011.)	
Thresholds	
Registration	None
Distance selling	€100,000
Intra-Community acquisitions	€10,000 (under specific conditions)
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services performed in France by a taxable person

- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in France (that is, services for which the recipient must account for the VAT due)
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of France includes Corsica and Monaco. The Overseas Dependencies of Guadeloupe, Martinique and Réunion are considered to be non-EU countries with respect to the other EU member states (see the chapter on the EU, page 208). VAT does not apply in French Guiana (Guyane).

### C. Who is liable

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

Under the franchise regime, the following thresholds apply to small French-established businesses:

- Sales of goods: €81,500
- Supplies of services: €32,600

The above thresholds, which are adjusted annually, are effective from 1 January 2011.

A taxable person that begins business activity in France must notify the French VAT authorities of its liability to register for VAT within 15 days.

Special rules apply to foreign or “nonestablished” businesses.

**Group registration.** Subject to certain requirements, VAT grouping is permitted under the French VAT law. Effective from 1 January 2012, an election to create a VAT group is allowed, with the election taking effect at the beginning of the following financial year. The VAT group is considered to be a single entity with respect to the VAT payment. As a result, all VAT liabilities due and input VAT (VAT credit) held by the group members are compensated within the group. However, each member of the VAT group must submit its own VAT return for information purposes.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in the territory of France. If a nonestablished taxable person exclusively performs supplies that are subject to the reverse-charge mechanism, it does not need to register for VAT in France.

Previously, entities that were not established in France and that made supplies subject to French VAT were not required to register for VAT in France because the French VAT was payable by the recipient registered for VAT in France (except for specific goods and services). However, the European Court of Justice recently found that the “*repondant*” mechanism was not in compliance with the EU VAT Directive.

Nonestablished businesses should review their French VAT registration status. In addition, a French VAT registration may be necessary to fulfill INTRASTAT obligations (see Section J).

**Tax representatives.** Businesses established in the EU may register for French VAT without appointing a tax representative in France. However, businesses established in the EU may appoint a tax agent in France to act on their behalf.

Businesses that are established outside the EU must appoint a tax representative to register for VAT. The tax representative is jointly and severally liable with the nonestablished businesses represented by it for all French VAT liabilities.

**Late-registration penalties.** No specific penalty is imposed for late VAT registration. However, interest and penalties may apply if a late registration results in the late payment of French VAT.

#### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are subject to VAT, including a reduced or super-reduced rate. The term “exempt supplies” refers to supplies of goods and services that are within the scope of VAT but that are not liable to tax. In principle, exempt supplies do not give rise to a right to deduct input tax on related expenditure (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include the following:

- Specified financial transactions
- Exports of goods outside the EU and related services
- Intra-Community supplies of goods
- Supplies of intangible services to other taxable persons established in the EU or to recipients outside the EU (see the chapter on the EU, page 208)

**Mainland France.** In mainland France, the following are the VAT rates:

- Standard rate: 19.6%
- Intermediate rate 7%
- Reduced rates: 2.1% and 5.5%

On 29 January 2012, President Sarkozy announced that the standard VAT rate may increase from 19.6% to 21.2% on 10 October 2012, to allow for a planned reduction in social security contributions.

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced VAT rate (these lists are not exhaustive and may have certain exceptions).

##### **Examples of exempt supplies of goods and services**

Land

Financial transactions

Buildings completed for more than five years

Insurance

Education

Health and welfare

Betting and gaming

**Examples of goods and services taxable at 2.1%**

Pharmaceuticals

**Examples of goods and services taxable at 5.5%**

Foodstuffs

**Corsica.** On the island of Corsica, the standard rate is 19.6%. However, rates of 0.9%, 8% and 13% apply to specified goods or services. The 0.9% rate applies to the first performance of certain theatrical performances and circuses. The 8% rate applies to work on immovable property, to agricultural equipment and to sales of restaurant food for consumption on the premises. The 13% rate applies to petroleum products. A reduced rate of 2.1% applies to the supplies of goods and services that are subject to the reduced rate of 5.5% in mainland France.

**Overseas Dependencies (Guadeloupe, Martinique and Réunion).** In the Overseas Dependencies of Guadeloupe, Martinique and Réunion, the standard rate is 8.5%. A reduced rate of 2.1% applies to the supplies of goods and services that are subject to the 5.5% rate in mainland France. A special VAT rate of 1.05% applies to periodicals.

**E. Time of supply**

In France, the time when the legal conditions necessary to determine the VAT liability are fulfilled is called the “tax event,” while the time when VAT becomes due and recoverable is called the “tax due point.” Different tax event rules and tax due point rules apply to supplies of goods and supplies of services.

**Goods.** The general rule is that the tax event and the tax due point for goods occur at the same time. They occur when the right to dispose of the goods as owner is transferred. If the sale contract stipulates that the supplier retains ownership of the goods, the tax is due at the moment of the physical transfer of the goods from the supplier to the buyer.

**Services.** The tax event for services is the moment when the services are performed, while the tax due point is the date of the effective payment. However, the supplier may opt to account for VAT on an accrual basis; that is, when the services are rendered and the invoice is issued. In principle, if the consideration for a supply of services is paid in installments, VAT is due on the receipt of each installment.

**Reverse charge.** The time of supply for a reverse-charge service received by a French taxable person is the date of payment for the service, unless the recipient of the service has opted to account for VAT on an accrual basis.

New rules are effective from 1 January 2010.

**Intra-Community acquisitions.** The tax event for an intra-Community acquisition of goods is the moment of the introduction of the goods in France. The tax due point is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice before this date but after the tax event, the tax due point is the date of the invoice.

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

## F. Recovery of VAT by taxable persons

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

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

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

The following tables provide examples of items of expenditure for which input tax is not recoverable and examples of items for which input tax is recoverable, except in specific cases (these lists are not exhaustive).

### Examples of items for which input tax is not recoverable

Hotel accommodation for employees  
 Petrol  
 Transport  
 Purchase, lease and maintenance of passenger cars  
 Business gifts valued at more than €60 including VAT

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

Restaurant meals and entertainment for employees and clients  
 Hotel accommodation for clients  
 Attending conferences, exhibitions and training seminars  
 Books  
 Motorway tolls  
 Liquefied petroleum gas (LPG)  
 Purchase, lease and maintenance of vans and trucks  
 Diesel fuel for vans and trucks  
 Advertising  
 Business use of a home telephone

**Partial exemption.** Input tax directly related to exempt supplies is not generally recoverable. If a French taxable person performs both exempt supplies and taxable supplies, it may not recover a portion of input tax. This situation is referred to as “partial exemption.”

In France, the amount of input tax that may be recovered is calculated in the following two stages:

- The first stage identifies the input VAT that may be directly allocated to exempt and to taxable supplies. Exempt with credit supplies are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies is not deductible. Input tax directly allocated to taxable supplies is fully recoverable.
- The second stage prorates the remaining input tax that relates to both taxable and exempt supplies to allocate a portion to taxable



supplies (which may be recovered). For example, this treatment applies to the input tax on general business overhead.

Alternatively, a taxable person may apply the recovery ratio to all of its purchases of goods and services.

A taxable person that performs within the same business entity different types of business activities that are subject to different VAT rules (referred to as “Separate Business Units”) must maintain separate accounts for each branch of activity and compute its recovery rights separately for each business unit.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. Input tax is recovered in the VAT year in which the goods are acquired. The amount of input tax recovered depends on VAT recovery rights in the year of acquisition. However, the amount of input tax for capital goods must be adjusted over time if the VAT recovery rights fluctuate by more than 10 percentage points (since 1 January 2008) during the adjustment period, depending on the effective use of the fixed assets.

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

- Buildings: for 19 years following the year in which they are acquired (that is, 20 years in total). This rule applies to buildings acquired on or after 1 January 1996.
- All other fixed assets: for four years after the year in which they were purchased, acquired under an intra-Community acquisition, imported or used for the first time (that is, five years in total).

The adjustment is applied each year following the acquisition, to a fraction of the total input tax (1/20 for land and buildings and 1/5 for other fixed assets). The adjustment may result in either an increase or a decrease of recoverable input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The input tax credit may be carried forward to offset output tax in subsequent return periods, until it is used up.

A refund of the input tax credit may be requested at the end of the calendar year if the total amount refundable is at least €150. A refund may also be requested at the end of a calendar month if the amount refundable is at least €760.

Taxable persons that principally perform supplies that are exempt with credit may claim monthly repayments, under certain conditions. Supplies that are exempt with credit include exports, intra-Community supplies of goods, supplies of international transport and supplies of intangible services to businesses established in the EU or to persons established outside the EU.

## **G. Recovery of VAT by nonestablished businesses**

France refunds VAT incurred by businesses that are neither established in France nor registered for VAT there. Nonestablished businesses may claim French VAT to the same extent as VAT-registered businesses.

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

For the general VAT refund rules under the EU 8th and 13th Directive refund schemes see the chapter on the EU, page 208.

**Refund application.** Under the EU 13th Directive, the deadline for refund claims is 30 June of the year following the calendar year in which the tax is incurred. This deadline is strictly enforced.

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

As a result of the implementation of the VAT package, the deadline for VAT refund claims under the EU 8th Directive is extended to 30 September of the year following the calendar year in which the tax is incurred.

Claims must be submitted in French. The application for refund must be accompanied by the appropriate documentation (see the chapter on the EU, page 208).

The minimum claim period is three months. The maximum claim period is one year. The minimum claim for a period of less than a year is €400. For an annual claim, the minimum amount is €50.

Applications for refunds of French VAT must be sent to the following address:

Service de remboursement de la TVA aux assujettis étrangers  
10 rue du Centre  
TSA 60015  
93 465 Noisy-Le-Grand Cedex  
France

As a result of the implementation of the VAT package, VAT refund claims filed under the EU 8th Directive procedure must, in principle, be submitted electronically.

**Repayment interest.** If the refund is not made within six months (possibly four months under the new rules for the EU 8th Directive procedure), the French VAT authorities must pay interest to the claimant if the refund claim complies with all of the requirements.

## H. Invoicing

**VAT invoices and credit notes.** A French taxable person must generally provide a VAT invoice for all taxable supplies performed, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. An invoice must be issued as soon as the supply has taken place.

A commercial invoice is necessary to support a claim for input tax under the domestic procedure or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the EU, page 208).

Under the French Administrative Guidelines, a VAT credit note may be used for transactions involving French clients to correct

the VAT amount charged and reclaimed on a supply. The VAT amount credited must be separately itemized and it must be cross-referenced to the original VAT invoice.

**Proof of exports and intra-Community supplies.** French VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence indicating that the goods have left France. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by customs and showing the supplier as the exporter. Other acceptable proof of export may be provided. The sales invoice must include the following statement in French: “*Exonération de TVA—art. 262 I du Code Général des Impôts.*”
- For an intra-Community supply, the supplier must include the purchaser’s EU VAT identification number on the sales invoice and the following statement in French: “*Exonération de TVA—art. 262 ter-I du Code Général des Impôts.*” The supplier must also retain commercial documentation (for example, purchase orders, transport documentation, proof of payment and a copy of the customer’s invoice stamped for receipt of the goods).

**Foreign-currency invoices.** If a French VAT invoice is issued in a foreign currency, the VAT amount to be paid must be converted to euros using the rate published by the French Central Bank for the date of the supply. For intra-Community transactions, the customs rate (published monthly) may be used. If a taxable person chooses to use the customs rate, such rate must be used for all intra-Community trade, for at least one calendar year for both VAT returns and INTRASTAT returns (see Section J).

## I. VAT returns and payment

**VAT returns.** Taxable persons with a turnover greater than €230,000, exclusive of tax, must submit returns and pay return liabilities electronically. Taxable persons with a lower amount of turnover may opt to file and pay electronically. A taxable person must submit an application to the French VAT authorities before submitting electronic returns. Return liabilities must be paid in euros.

For French companies, monthly VAT returns and payment are due between the 15th and the 24th day of the month following the end of the return period. The due date depends on several factors including the type of legal entity involved and where the taxable person is established.

For foreign entities, monthly or quarterly VAT returns are due on the 19th day of the month following the end of the return period.

**Penalties.** The following penalties are assessed for errors associated with electronic filing:

- Failure to declare VAT by electronic means (even if the return is submitted on paper by the due date): 0.2% of the VAT due
- Failure to pay VAT by electronic means (including payment made by the due date, but not made electronically): 0.2% of the VAT due

The following penalties are assessed for the late submission of VAT and late payment of VAT:

- Late payment: 5% of the tax due
- Late submission: 10% of the tax due if the French VAT authorities have not yet issued a formal notice
- First formal notice of a late submission: 40% of the tax due
- Second formal notice of a late submission: 80% of the tax due

In addition to the penalty, interest accrues at a rate of 0.4% per month.

Penalties and interest payments may also apply to inaccurate returns.

## J. EU declarations

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

For 2011, the threshold for INTRASTAT Arrivals is €460,000. No threshold applies for INTRASTAT Dispatches.

French taxable persons must complete INTRASTAT declarations in euros.

The INTRASTAT return period is monthly. The submission deadline is the 10th day of the month following the end of the return period.

The penalty for late filing is €750, increased to €1,500 if the report is not filed within 30 days after the French customs authorities have issued a warning notice. In addition, every omission or inaccuracy on an INTRASTAT return is punishable by a fine of €15. The fine cannot exceed €1,500 per INTRASTAT return. A penalty of €1,500 may also apply if a taxable person refuses to provide information or documents to the French customs authorities.

**EU Sales Lists.** In France, all information related to intra-Community transactions is reported using the INTRASTAT form. No separate EU Sales List (ESL) is used.

As a result of the implementation of the VAT package, effective from 1 January 2010, an ESL for services must, in principle, be filed with respect to services provided by French suppliers to customers registered for VAT in the EU in specified circumstances.

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## Georgia

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	damatebuli ghirebulebis gadasakhadi
Date introduced	24 December 1993
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.mof.ge">http://www.mof.ge</a> )
VAT rates	
Standard	18%
Temporary imports	0.54%
Other	Exempt with the right to reclaim input tax and exempt without the right to reclaim input tax
VAT number format	Not applicable
VAT return period	Monthly or quarterly
Registration thresholds	
Businesses established in Georgia	Revenue of GEL 100,000 (approximately €45,000) in the preceding 12 months or first taxable supply or set of taxable supplies in a day exceeding GEL 100,000
Businesses established elsewhere	Reverse-charge rule applies
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- Supply of goods or services in Georgia
- Use of VAT taxable goods or services for noneconomic purposes if a taxpayer has obtained a VAT credit for these goods (services)
- On termination of VAT registration, the balance value of the goods for which a taxpayer has obtained or is entitled to obtain a VAT credit
- Use of self-constructed buildings as fixed assets
- Transfer of ownership of goods or services in exchange for shares in an enterprise or partnership
- On expiration or early termination of a rental agreement, supply of leasehold improvements, if any, to the landlord
- Import or temporary import of goods into Georgia
- Export or re-export of goods from Georgia

### C. Who is liable

Business entities or individuals are considered VAT payers if any of the following circumstances exists:

- They are registered or required to be registered for VAT.
- They carry out taxable imports or temporary imports of goods into Georgia. Such persons are considered VAT payers with respect to such imports or temporary imports only.
- They are nonresident persons (except for Georgian citizen individuals) rendering services in Georgia without VAT registration and a permanent establishment. Such persons are considered VAT payers with respect to such services only and are subject to reverse-charge taxation.

Taxpayers must register for VAT if they satisfy any of the following conditions:

- They conduct economic activities, and the total amount of VAT taxable transactions carried out in any continuous period of 12 calendar months exceeds GEL 100,000. Such persons must register within two working days after exceeding the threshold.
- They produce goods subject to excise tax (excisable goods) in Georgia. Such persons must register before making a supply of such goods.
- They import excisable goods into Georgia (except for excisable goods exempt from VAT taxation on import). Such persons must register before making a supply of such goods.
- They intend to carry out a single VAT taxable supply or a set of VAT taxable supplies in one day for a total amount exceeding GEL 100,000. Such persons must register within two working days after exceeding the threshold.
- An entity is established as a result of reorganization and at least one of the parties to the reorganization is a VAT payer. The entity must register before a VAT taxable transaction is carried out, but no later than 10 calendar days following the completion of the reorganization.
- A VAT payer contributes goods or services into the capital of an enterprise or partnership. Registration is required before a VAT taxable transaction is carried out, but no later than 10 calendar days following the date of the contribution.

For purposes of determining whether VAT registration is required, exempt supplies with the right to reclaim input tax and exempt supplies without the right to reclaim input tax are not considered.

The above measures also apply to a foreign entity in Georgia. However, to determine the total amount of taxable transactions of a nonresident person, only the supply of goods and rendering of services through a permanent establishment in Georgia is taken into consideration.

The VAT registration procedure is straightforward and any taxpayer may register for VAT in one working day.

**Voluntary registration.** A business established in Georgia, including a permanent establishment of a foreign entity, may register for VAT voluntarily. VAT registration is effective from the application date but no later than the date when the obligation of mandatory VAT registration arises.

**Group registration.** VAT group registration is not allowed in Georgia. Entities that are legally related must register for VAT individually.

**Nonestablished businesses and tax representatives.** A “nonestablished business” is a business that does not have a permanent establishment in Georgia. If a business does not have a permanent establishment in Georgia, it may not register for VAT even if it makes taxable supplies of goods or services there. Reverse-charge VAT generally applies to the supply of services made by nonestablished businesses in Georgia.

The supply of goods by a nonestablished business through its tax representative in Georgia is considered to be a supply made by such representative for VAT taxation purposes.

**Reverse charge.** The reverse-charge mechanism applies to non-resident entities or nonresident individuals (except for Georgian individual citizens) making a taxable supply of services in Georgia. The reverse-charge mechanism also applies to the supply of goods or services conducted outside Georgia if the product (for example, projection documents, technical documentation, and technical schemes and programs) is delivered to resident taxpayers through the Internet or any other means of electronic communication and does not cross the economic border of Georgia in the form of an integrated device or any other type of information bearer. Under the reverse-charge mechanism, resident taxpayers (except for individuals who do not carry out entrepreneurial activities and Free Industrial Zone Companies) and permanent establishments of foreign entities are responsible for the calculation and payment of VAT.

**Deregistration.** The VAT registration of a taxpayer, including a permanent establishment of a foreign entity, is cancelled in the following cases:

- A business is liquidated.
- An individual passes away.
- A taxpayer applies to the tax authorities through a written request or approves a request from the tax authorities to deregister.

A taxpayer may request deregistration within one year after the most recent VAT registration if the total amount of VAT taxable transactions carried out during the preceding 12 calendar months did not exceed GEL 100,000. The tax authorities may also request that the taxpayer deregister. Deregistration occurs if the taxpayer agrees with the request.

VAT registration is cancelled from the date the state registration is cancelled, the date the individual passes away or the first day of the month following the application by a taxpayer or an approval of the request from the tax authorities.

**Late-registration penalties.** A penalty is assessed for late VAT registration. This penalty equals 15% of the VAT taxable turnover (except for exempt supplies) for the entire period of operating without VAT registration. The penalty for the late filing of a VAT return (see Section I) does not accrue during this period.

#### **D. VAT rates**

The term “taxable supply” refers to the supply of goods and services that are subject to VAT. The term “exempt supply” refers to the supply of goods and services that are not subject to VAT.

Persons that make exempt supplies may or may not be entitled to claim the input tax deduction (see Section F).

In Georgia a standard rate of VAT at 18% applies to all taxable supplies of goods and services and imports, unless a specific measure allows an exemption. The 18% rate also applies to transactions subject to the reverse-charge mechanism. A VAT rate at 0.54% applies to temporary imports for each full or partial calendar month in which the goods are located in the economic territory of Georgia, but the maximum VAT rate for these goods is 18%.

Goods and services that are exempt from VAT may or may not give rise to input tax deductions. The following tables list examples of exempt items for which the taxpayer has the right to reclaim input tax and those for which the taxpayer does not have the right to reclaim input tax (these lists are not exhaustive).

**Examples of exempt items  
with the right to reclaim input tax**

Export or re-export of goods for the reporting period in which the export or re-export is made

Supply of goods or services intended for the official use of foreign diplomatic missions and equivalent representative offices as well as for the personal use of the members of such diplomatic missions and representative offices (including family members residing with them)

Transportation of exported and transit goods (foreign goods moving through the economic territory of Georgia) and related services

Transportation of goods not yet declared into import, warehouse, temporary import, internal processing or free-zone operations between points located in Georgia and related services (except for storage services)

Transportation of goods declared into import, warehouse, temporary import, internal processing or free-zone operations before entering the territory of Georgia from the economic border of Georgia to the destination point and related services (except for storage services)

Transportation of passengers and cargo and related services, if the departure or arrival point is located outside Georgia and if a unified transportation document is issued for such transportation

Import and supply of products to be provided on board for international flights or international sea passages

Transportation, loading, reloading and storage services provided for the purpose of sending (returning) empty transport facilities (including containers and wagons) outside Georgia

Supply of natural gas to thermoelectric power stations

Withdrawal of assets by the state or a local governing body from an entity's capital if more than 50% of the shares is owned by the state or the local governing body

Free supply of goods or services to the state or a local governing body

Supply of Georgian goods for sale in a free-trade point and sale of goods and provision of catering services in a duty-free zone

Supply of assets during a corporate reorganization



- Contribution of assets into the capital of an enterprise or partnership (on the contribution, the recipient hypothetically credits the VAT on the assets)
- Supply of gold to the National Bank of Georgia
- Organized foreign tours into Georgia by tour operators and the supply of tourist packages to foreign tourists
- Supply of all assets or independently operating units of an entity in a single transaction by one VAT payer to another VAT payer if both parties notify the Georgian Tax Authorities within 15 days after the supply
- Rendering of services to ships on carrying goods into the economic territory of Georgia
- Supply of foreign goods in an authorized warehouse
- Supply of goods or services or import of goods in accordance with the framework of international agreements ratified by the parliament of Georgia

**Examples of exempt items  
without the right to reclaim input tax**

- Supply or import of certain medicines
- Supply or import of passenger cars
- Supply or import of publications and mass media
- Supply or import of baby products
- Supply of land plots
- Supply of goods and services between Free Industrial Zone Companies
- Conduct of financial operations or supply of financial services
- Supply of medical services
- Supply of educational services
- Supply of assets under finance leases if the assets are exempt without the right to reclaim input tax
- Supply of betting and gaming services
- Supply or import of goods and services needed for the oil and gas industry under the Law of Georgia “on Oil and Gas”
- Import or temporary import of goods or services intended for the official use of foreign diplomatic missions and equivalent representative offices as well as for the personal use of the members of such diplomatic missions and representative offices (including family members residing with them)
- Import or temporary import of goods intended for the personal use of the citizens of foreign countries employed at oil and gas exploration and extraction works
- Supply of property by partnerships to their members if all the members are individuals, the partnership is not a VAT payer, and the members have not changed since the moment of establishment of partnership

The taxpayer may choose not to apply the exemption without the right to reclaim input tax with respect to its supplies. In this case, exempt supplies become subject to VAT and the taxpayer obtains the right to reclaim input tax. This option becomes effective from the first day of the reporting period after the application and is valid for the following 12 calendar months for all taxable transactions. The tax authorities must register the taxpayer for VAT and the taxpayer must accrue VAT on exempt supplies.

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The “basic” tax point is the moment when goods are delivered or made available to a customer or services are rendered. However, the “actual” tax point is the date on which the invoice for supplied goods or rendered services is issued or the date on which the payment obligation for supplied goods or rendered services arises, if either of these dates is earlier than the basic tax point. For regular or continuous supplies of goods (electrical or thermal energy, gas or water supply) and services, the actual tax point is the last day of a reporting period if earlier than the basic tax point.

A range of other situations have different time-of-supply rules that do not fit naturally into the above scheme. The following are some of these special time-of-supply rules:

- Starting point of the use of goods or services for noneconomic purposes
- In the case of VAT deregistration, the day preceding the date on which registration is cancelled
- Starting point of bringing self-constructed buildings into use as fixed assets
- Starting point of receiving ownership of goods or services in exchange for shares in an enterprise or partnership
- In the case of the supply of leasehold improvements to the landlord, the moment of expiration or early termination of the rental agreement
- December of each year for long-term contracts if neither the basic nor actual tax point occurs

**Imported goods.** The time of supply for imported goods is the date on which the commodity declaration is filed at the border and the goods are accordingly placed into the import regime.

**Reverse-charge services.** The time of supply for services subject to the reverse-charge mechanism is determined in accordance with the standard rules discussed above.

## F. Recovery of VAT by taxable persons

VAT-registered taxable persons may recover input tax, which is VAT charged on goods and services received for business purposes. Taxable persons generally recover input tax by deducting it from output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services acquired in Georgia, VAT paid on imports or temporary imports of goods into the economic territory of Georgia and VAT self-assessed for reverse-charge services received from outside Georgia. Input tax also includes VAT assessed on self-constructed buildings that are used as fixed assets.

A taxpayer that has declared and paid VAT in excess of GEL 200,000 (approximately €90,000) for the preceding 12 calendar months automatically obtains the special status of import VAT taxation starting from the first day of the month following the respective reporting period. Under this status, importation is not considered to be a taxable object, and the taxpayer theoretically credits the input tax on the goods imported. The taxpayer may refuse the special status by applying to the tax authorities at any time.

The claim for input VAT must be accompanied by one of the following documents:

- Tax invoice
- Commodity declaration
- The bank payment order for reverse-charge VAT
- The bank payment order for VAT on a temporary import of goods
- The bank payment order for services rendered by public law entities
- The bank payment order for VAT paid on the difference between the purchase price and tariff value of foreign goods supplied in an authorized warehouse, on the import of such goods

The recovery of VAT incurred before VAT registration is allowed on the balance of goods acquired for business purposes outstanding at the moment of VAT registration.

A VAT credit is allowed for the following:

- Goods and services that are used or will be used in taxable transactions (except for exempt transactions without the right to reclaim input tax), exports or re-exports of goods and rendering of services outside Georgia
- Goods and services used for production of the above-mentioned goods or rendering of services

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for taxable transactions. In addition, input tax may not be recovered for certain items of business expenditure.

No VAT credit is allowed with respect to VAT in the following circumstances:

- VAT is paid with respect to entertainment events held for social purposes or with respect to representative expenses.
- VAT is paid on expenses incurred or that will be incurred for the production of goods and services used in exempt supplies without the right to reclaim input tax.
- VAT is shown on tax invoices that do not make the identification of the seller of the goods or services possible.
- VAT is shown on tax invoices not included in a tax return within one or three reporting periods following the reporting period of a taxable transaction for taxpayers with a VAT reporting period of a quarter or month, respectively.
- VAT is shown on tax invoices issued with respect to bogus operations or fictitious agreements.

**Partial deduction.** If a VAT payer makes both exempt supplies with the right to reclaim input tax and exempt supplies without the right to reclaim input tax, it must account for these supplies separately. Input VAT directly related to exempt supplies with the right to reclaim input tax is recoverable in full, while input VAT directly related to exempt supplies without the right to reclaim input tax is not recoverable. Input VAT that may not be directly attributed to either of these two types of exempt supplies must be apportioned. The statutory method of apportionment is a pro rata calculation, based on the value of exempt supplies without the right to reclaim input tax as compared to the total turnover of the business. The recoverable VAT is adjusted in the last VAT return for the current tax year in accordance with the annual proportion.

**Capital goods.** Capital goods are items of capital expenditure that are used in the business for more than one year.

The recovery of input VAT on capital goods is similar to the other goods described above with one exception. This exception applies if fixed assets are used in both exempt supplies with the right to reclaim input tax and exempt supplies without the right to reclaim input tax, and the input VAT cannot be directly attributed to either of these two types of exempt supplies. In these circumstances, the input VAT is recoverable in full in the first reporting period if exempt supplies without the right to reclaim input tax account for less than 20% of the total turnover of the preceding tax year of the business. The recoverable VAT is adjusted at the end of each calendar year based on the value of exempt supplies without the right to reclaim input tax as compared to the total turnover of the business for the respective calendar year.

If the above-mentioned 20% threshold is not met, the input VAT is recoverable only in the last VAT return of a calendar year in the proportion of supplies with the right to reclaim input tax to total turnover of the business during the calendar year.

The following adjustments must be made to the value of input VAT for capital goods:

- For a building, an adjustment of 1/10 of total input VAT applies annually for 10 calendar years from the year of bringing the building into use.
- For other fixed assets, an adjustment of 1/5 of total input VAT applies annually for five calendar years from the year of bringing the asset into use.

**Refunds.** The excess of input VAT over output VAT in the reporting period must first be used to offset other taxes payable. If the amount of VAT credit exceeds all taxes payable, the excess can be used to cover future VAT and other tax liabilities, or a refund may be claimed.

In certain cases specified by the Minister of Finance of Georgia, overpaid tax may be refunded to the taxpayer automatically.

## **G. Recovery of VAT by nonestablished businesses**

Nonestablished businesses cannot recover VAT, because only entities registered for VAT in Georgia may claim recovery of input tax.

**Refund application.** If the amount of input VAT on the export of goods, import or purchase of fixed assets subject to depreciation under the Tax Code of Georgia or the purchase of goods for the construction of buildings exceeds the output VAT assessed during the reporting period, this surplus amount must be refunded to the taxpayer within one month following the submission of the application to the tax authorities.

For all other cases, a surplus of input VAT over output VAT assessed during the reporting period must be returned to the taxpayer within three months following the submission of an application to the tax authorities.

**Refund of VAT paid on goods purchased by citizens of foreign countries.** A citizen of a foreign country who purchased goods in Georgia may obtain a refund of VAT paid on the goods if the following criteria are met:

- The goods are taken out of Georgia within three months from their purchase.
- The price of the goods is more than GEL 200 (exclusive of VAT) per receipt.
- A special receipt is issued by an authorized seller.

## H. Invoicing

**VAT invoice and corrected VAT invoice.** A VAT invoice is an accounting document that must be issued in the format approved by the Minister of Finance of Georgia in paper or electronic form. It certifies the occurrence of a VAT taxable transaction.

A VAT-registered taxpayer is required to issue a VAT invoice to the recipient of goods or services on the request of the recipient within 30 days. VAT invoices can be issued only for VAT taxable transactions. They can be issued according to the supply cycles for electrical or thermal energy, gas or water supplies if the taxpayer accounts for the supplies based on cycle accruals and payment is usually made periodically and not according to the calendar months.

VAT invoices must be issued in Georgian lari.

The Minister of Finance of Georgia may introduce a special form of VAT invoice for certain goods or services or certain buyers. In addition, computer-printed VAT invoices may also be introduced for certain VAT payers.

Corrected VAT invoices may be used to adjust VAT if a taxable transaction is cancelled, the type of taxable transaction has changed, the compensation amount has changed or services are partially or fully returned to the VAT taxpayer.

A corrected VAT invoice is also an accounting document issued in the format approved by the Minister of Finance of Georgia. It certifies the correction of a VAT taxable transaction.

## I. VAT returns and payment

**VAT returns.** The VAT reporting period is a quarter or a month. VAT payers must file VAT returns by the 15th day of the month following the reporting period. VAT returns must be completed in Georgian lari and filed electronically.

The VAT amount payable to the budget is the difference between output and input VAT. Payment in full is required by the due date for the VAT return. VAT liabilities must be settled in Georgian lari.

VAT on imports is paid at the moment the goods are imported into Georgia.

VAT on temporary imports must be paid by the 15th day of the month following the month of the temporary import. The last payment must be made on the last day of the temporary import.

Reverse-charge VAT must be paid by the 15th day of the month following the reporting period.

**Penalties.** Penalties and interest apply to a range of offenses. Late payment interest is calculated from the day following the payment due date. Late payment interest is imposed at a rate of 0.07% of the overdue tax amount for each overdue day. The payment day is considered an overdue day in case of delay.

A penalty is imposed for the late submission of a tax return at a rate of 5% of the amount payable stated in the return for each full or partial month of delay. The amount of the total penalty may not exceed 30% of the tax payable stated in the return and may not be less than GEL 200.

If tax is understated, a penalty equaling 50% of the understated amount is imposed. A 10% penalty applies if the understatement results from a change of a tax point by the tax authorities. Understatement of tax in excess of GEL 25,000 is considered tax evasion, and criminal proceedings are instituted.

The above penalties also apply to the increase of credited tax or tax subject to refund. If credits are claimed based on bogus operations, fictitious agreements or fake documents, a penalty of 200% of the credited tax amount is imposed.

If a purchaser requests an invoice and if the invoice is not submitted, a penalty equal to 100% of the VAT amount of the taxable transaction is imposed.

For the issuance of a fake invoice or the issuance of an invoice based on bogus operations or fictitious agreements, a penalty equal to 200% of the VAT amount indicated in this VAT invoice is imposed.

Interest is not charged on penalties.

No penalty is imposed for incorrect information presented in the return or calculation form filed by the taxpayer if the latter files an amended return or calculation form before receiving the notification regarding the tax audit or the tax violation from the tax authorities.

The head of the tax authorities and dispute resolution body may not impose the sanction on a “good faith taxpayer” if the taxpayer’s action resulted from a mistake or unawareness and has not adversely affected the state budget.

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Umsatzsteuer/Mehrwertsteuer
Date introduced	1 January 1968
European Union (EU) member state	Yes
Administered by	German Ministry of Finance ( <a href="http://www.bundesfinanzministerium.de">http://www.bundesfinanzministerium.de</a> )
VAT rates	
Standard	19%
Reduced	7%
Other	Exempt and exempt with credit
VAT number format	DE123456789 (DE+9 digits)
VAT return periods	Monthly or quarterly and/or annual returns
Thresholds	
Registration	None
Distance selling	€100,000
Intra-Community acquisitions	€12,500
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Germany by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge supplies, including supplies of services and supplies of goods with installation services
- The self-supply of goods and services by a taxable person
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of Germany does not include the Island of Helgoland, the territory of Buesingen and a free zone of control type I (as defined in Article 1 (1), first sentence of the Customs Administrative Act; this covers the free ports of Bremerhaven, Cuxhaven, Emden, Hamburg and Kiel), as well as certain other special territories.

The rules regarding the taxation of services have been significantly amended, effective from 1 January 2010, under the so-called “VAT-Package-Amendments.” Under the general rule, services rendered to taxable persons are now taxable where the recipient is resident (many exceptions apply). Consequently, services rendered for foreign businesses are taxable in their home countries instead of Germany.



### C. Who is liable

A taxable person is any person, business entity or individual that independently carries out any economic activity in any place.

No VAT registration threshold applies in Germany. A taxable person that begins an activity in Germany must notify the German VAT authorities of its liability to register.

The reverse-charge procedure applies to the following:

- Services and the supply of goods with installation provided by “nonestablished businesses”
- Certain supplies in connection with immovable property
- Certain supplies in connection with the real estate transfer tax law
- Certain supplies of gas and electricity
- Goods supplied as part of the execution of security outside of an insolvency procedure
- Supply of rights to emit greenhouse gases
- Certain supplies of heat and cooling
- Supply of scrap and discarded metal as defined by a special annex
- Facility cleaning under certain conditions
- Supplies of integrated circuits and mobile phones for a remuneration of €5,000 or more

The reverse-charge procedure does not apply to certain supplies of passenger transportation or to services with respect to fairs or exhibitions.

**VAT numbers.** The following two distinct types of numbers are used in Germany:

- General tax number (Steuernummer)
- VAT Identification Number (USt-IdNr.)

The tax number is the number under which the taxable person is registered at the local tax office that is responsible for the person’s tax affairs. The tax authorities use the tax number for internal management and coordination purposes. The tax number must be used for all preliminary VAT returns, annual VAT returns and all correspondence with the local tax authority.

On receipt of the tax number, a taxable person may apply to the Federal Office of Finance in Saarlouis for a VAT Identification Number. This number is used for intra-Community transactions.

**Group registration.** Germany allows group registration for subsidiaries that are “financially, economically and organizationally integrated” into the business of a parent entity. The following general conditions apply:

- The parent (or controlling) member of the VAT group may be any type of legal entity, including a corporation, a general partnership or a sole entrepreneur.
- A subsidiary (or controlled) member of a VAT group must be a corporation.

The VAT authorities apply the following tests to determine whether entities meet the criteria for integration:

- “Financial integration” means that the parent has the majority of voting rights in the subsidiaries.

- “Economic integration” means that the subsidiaries act like departments of one entity or like divisions with respect to the overall business of the group.
- “Organizational integration” exists if the parent has the means to exercise management power in the subsidiaries. For example, this requirement is met if the parent and the subsidiary have the same person acting as the Managing Director.

If the integration conditions are met, the subsidiaries and the parent are automatically treated as a group for VAT purposes. The effect of grouping is that the subsidiary is no longer considered to be an entrepreneur or separate taxable person. As a result, intra-group transactions are outside the scope of VAT and accordingly, no VAT is charged. The subsidiary is no longer required to file separate VAT returns and its transactions are reported through the parent’s VAT return. These effects apply only to domestic supplies between the group entities (that is, supplies within the scope of German VAT). In addition, the effects of the VAT grouping are limited to Germany.

VAT grouping does not apply to certain intra-Community compliance obligations (see Section J). Each subsidiary must have its own separate VAT Identification Number and must file its own European Sales List, if it carries out intra-Community supplies. INTRASTAT returns may either be filed on an aggregate group basis by the parent or by each subsidiary separately.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Germany. A nonestablished business is not required to register for German VAT if all of its supplies are covered by the reverse-charge procedure (under which the recipient of the supply must self-assess VAT). The reverse-charge procedure applies to most transactions. It does not apply to supplies of goods located in Germany (except supplies of installed goods) or to supplies of goods or services made to private persons. In principle, if the reverse charge does not apply, a nonestablished business must register for German VAT.

**Tax representatives.** In principle, a nonestablished business that is required to register for VAT in Germany may not appoint a tax representative. A tax representative may be appointed only if the nonestablished business does not have any German VAT to reclaim and exclusively makes supplies that are either exempt from German VAT or that are exempt with credit.

**Late-registration penalties.** No specific penalty applies to late VAT registration in Germany. If, as a result of the late registration, a taxable person submits VAT returns belatedly, late-filing penalties may apply. Penalties are also charged for any late payments of VAT. In addition, late filing and late payment of VAT may be regarded as a tax fraud.

Late-filing penalties may be assessed up to 10% of the VAT due.

Late-payment penalties amount to 1% of the VAT due per month.

In the case of a voluntary disclosure to prevent punishment of tax fraud, a surcharge of 5% of the tax amount applies.

## D. VAT rates

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

refers to supplies of goods and services that are not liable to German VAT and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the EU and related services, and intra-Community supplies of goods (see the chapter on the EU, page 208).

The following are the two rates of VAT in Germany:

- The standard rate at 19%
- The reduced rate at 7%

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

An option to treat VAT-exempt supplies and services as taxable supplies exists.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive and exceptions apply in each case, as specified by law).

#### **Examples of exempt supplies of goods and services**

Land and buildings  
 Financial transactions  
 Insurance  
 Education  
 Medical services

#### **Examples of goods and services taxable at 7%**

Books and newspapers  
 Cultural services  
 Food  
 Passenger transport (however, effective from 2012, transport by ship is subject to the standard rate of 19%)  
 Agricultural products  
 Hotel stays

### **E. Time of supply**

In principle, German VAT payable is due on the 10th day following the end of the filing period (Vorankündigungszeitraum) in which the VAT falls due. A filing period may be a month or a quarter of the calendar year.

The VAT falls due at the end of the filing period in which a supply takes place (tax point). However, some taxable persons are permitted to account for VAT on a cash basis (cash accounting). If cash accounting is used, the tax point is the end of the filing period in which payment is received.

**Prepayments.** The tax point for an advance payment or prepayment is the end of the VAT return period in which payment is received.

**Reverse charge.** The tax point for a supply taxed under the reverse-charge procedure (self-assessment by a German taxable person) is the end of the month following the month in which the supply

takes place. If the supplier issues an invoice before this date, the tax point is the date on which the invoice is issued. For most services under the reverse-charge procedure, the tax point is the month in which the services are rendered, regardless of the date on which the invoice is issued. For most services under the reverse-charge procedure that last longer than a year, the tax point is once a year (for the yearly part of the service).

**Intra-Community acquisitions.** The tax point for an intra-Community acquisition of goods is the end of the month following the month when the acquisition occurred. If the supplier issues an invoice before this date, the tax point is the date on which the invoice is issued.

**Imported goods.** The tax point for imported goods is the date on which the goods clear customs or the date on which the goods leave a duty suspension regime and are released for free circulation. The date on which import VAT becomes due depends on how the goods clear customs. The following are the applicable rules:

- If the goods are cleared without using a payment-simplification regime, in general, the import VAT payment is due within 10 days.
- If the goods are cleared using a payment-simplification regime, payment is postponed for up to 45 days.

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for taxable business purposes (used for taxable (output) services or supplies). Exceptions to this rule exist. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in Germany, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods (see the chapter on the EU, page 208) and VAT on purchases of goods and services taxed under the reverse-charge procedure.

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

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use). The following specific rules apply in Germany to the input tax deduction:

- The 10% rule. If an asset is used for less than 10% business purposes, no input VAT recovery is allowed. This rule applies to all assets.
- Private use. For corporations (for example, a GmbH or an AG) that are taxable persons, any purchase of goods or services is treated as being made for business purposes. Consequently, input VAT recovery is allowed in full. If the goods or services are used for private purposes, the legal entity is deemed to make a supply of goods or services and output VAT is due.
- Luxury goods and services. Input tax may not be deducted for some items of business expenditure. In general, if an item of expense is allowable for German income tax purposes, the input tax may be deducted.

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Business gifts (if valued over €35)

Employees' home telephone bills and private mobile telephone bills

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

Hotel accommodation

Restaurant meals for employees on business trips

100% purchase, lease or hire of cars by corporations, partnerships or sole proprietors (with VAT chargeable on employee private use)

Advertising

Books

Transport services

**Partial exemption.** Input tax directly related to making exempt supplies is generally not recoverable. If a German taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption."

Exempt with credit supplies are treated as taxable supplies for these purposes.

The amount of VAT recoverable is calculated using the following two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible. Input tax directly related to exempt supplies is not deductible (exceptions apply).
- The second stage identifies the amount of the remaining input tax (for example, business overhead) that may be allocated to taxable supplies and recovered.

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

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

- Land and buildings (adjusted for a period of 10 years)
- Other assets (adjusted for a period of five years)

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

The above provision also applies to current assets and services.

For goods that are used only once, the adjustment takes place at the time the transaction (for example, their resale) is carried out. No adjustment period applies.

The initial input VAT deduction for services that are not performed on goods but that are used for transactions within the scope of VAT (for example, software licenses, cleaning services, consulting services for a business concept and prepayments for long-term leasing) must be adjusted to the extent that the initial deduction ratio changes.

For goods that are integrated in other goods and for services performed on goods, the capital-goods scheme applies in the same way; that is, the additional supply has its own capital-goods adjustment scheme, but the adjustment period is the same as the period that applies to the basic good (for example, if new windows are added to a house, the adjustment period for the windows begins with their first use and the adjustment period lasts for 10 years, because the windows become part of the immovable property).

No adjustment need be made in the following situations:

- The total input VAT on the purchase or the production cost of the goods or service is less than €1,000.
- The correction amount for the year does not exceed €1,000, and the adjustment is less than 10%.

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The credit is generally refunded. Exceptionally, the tax authorities may make the refund conditional on the taxable person making a deposit (for example, a bank guarantee) which is subsequently refunded.

## **G. Recovery of VAT by nonestablished businesses**

Germany refunds VAT incurred by businesses that are neither established in Germany nor registered for VAT there. For businesses established in the EU, refund is made under the terms of the EU Directive 2008/9/EC; see below). For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. In accordance with the terms of the 13th Directive, refunds to non-EU businesses are made on the condition of reciprocity. The German VAT authorities have published a list of countries to which refunds are granted and a list of those to which they are not granted.

A nonestablished business is generally allowed to claim German VAT to the same extent as a VAT-registered business. However, businesses established outside the EU may not recover German VAT on fuel costs.

For the general VAT refund rules of the EU refund schemes, see the chapter on the EU, page 208.

**Refund application for non-EU businesses.** The deadline for refund claims by non-EU businesses is 30 June of the year following the year in which the invoice was received by the claimant. The date of supply may be earlier than the date of the invoice. The claims deadline is strictly enforced.

Claims must be submitted in German. The application for refund must be accompanied by the appropriate documentation (see the chapter on the EU, page 208). The claimant must submit a Certificate of Taxable Status, which confirms that the claimant is registered as a taxable person under a tax number. The certificate may not be older than one year. In addition, the German VAT authorities may send an additional questionnaire, to confirm that the claimant should not be registered for VAT in Germany, as opposed to using the EU 13th Directive procedure. According to the tax authorities, the application must be signed by the legal representative and that other representatives are not allowed to sign the application. Consequently, they may reject an application on this ground. Cases regarding this issue are currently pending.

For all claimants, the minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is €500, while the minimum amount for an annual claim or for the remainder of a year is €250.

Applications of non-EU businesses for refunds of German VAT must be sent to the following address:

Bundeszentralamt fuer Steuern  
Dienstsitz Schwedt  
Passower Chaussee 3b  
D-16303 Schwedt/Oder  
Germany

**Refund application for EU businesses.** The deadline for refund claims of EU businesses is 30 September of the year following the year in which the invoice was received by the claimant. The date of supply may be earlier than the date of the invoice. The claims deadline is strictly enforced.

EU businesses must file their refund claims to the competent tax authorities in their home states via an electronic form. These tax authorities pass on the form to the German Federal Tax Office (Bundeszentralamt fuer Steuern, or BZSt). The language on the electronic form is the language of the member state where the claimant is established. Any further correspondence with the BZSt must be completed in German. The minimum value of a claim is €400 and the minimum value for annual claims (or the remainder of the year) is €50. The original VAT invoices no longer need to be attached to the claims. However, copies must be attached electronically if the net amount is €1,000 or more or if the net amount for fuel is €250 or more. The original invoices must be retained because the BZSt may view the original invoices or copies of them under certain circumstances. The BZSt must generally repay VAT within four months after the date on which the claim was submitted for refund. The refunded amount yields interest of 0.5% per month, beginning generally four months and 10 work days after the claim is received by the BZSt.

Effective from 1 January 2011, a qualified electronic signature is required for electronic returns and claims to a German tax authority. This rule applies to the refund claims described above. It is not known if an exception will be provided.

## H. Invoicing

**VAT invoices and credit notes.** A German taxable person must generally provide VAT invoices for supplies made to other taxable

persons and to legal entities, including exports and intra-Community supplies. This obligation generally does not exist for supplies that are VAT-exempt. Invoices are not automatically required for supplies made to private persons. A German taxable person is required only to issue invoices to private persons for certain supplies in connection with real estate.

Invoices must be issued within six months.

Taxable persons must retain invoices for 10 years. Private persons who receive invoices for certain supplies in connection with real estate must retain the invoices for two years. Otherwise, private persons are not required to retain invoices.

A VAT invoice is required to support a claim for input tax deduction or a refund under the EU refund schemes (see above and the chapter on the EU, page 208).

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

For intra-Community supplies of goods and exports, the invoice must include the statement that the supply is VAT-free. In addition, the customer's valid VAT Identification Number (issued by another EU member state) must be mentioned in the invoice for all intra-Community supplies of goods.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left Germany. Acceptable proof includes certain bookkeeping records and the following documentation:

- For an export supply, certain validated customs documentation. If a freight forwarder is involved, a special confirmation of the freight forwarder or certain commercial documentation is required.
- For an intra-Community supply, a copy of the invoice, transport documentation and certain confirmations of the customer. If a freight forwarder is involved, a copy of the invoice and a special confirmation of the freight forwarder are required.

*Revised regulations.* Revised regulations regarding the required evidence are effective from 31 March 2012.

Under the new rules, the Automated Tariff and Local Customs Clearance System (ATLAS) proof of export is considered to be the standard documentary proof. Alternative proof, such as bills of lading, airway bills or freight forwarder certificates, is accepted only if an export has not been declared in the electronic ATLAS procedure or if, in special cases, the electronic export procedure could not be completed as required.

The new rules introduce a new standard proof for intra-Community supplies, the so-called *Gelangensbestätigung* (confirmation of arrival). An intra-Community supply is accepted as zero-rated only if such confirmation is available. The confirmation must contain the following information:

- The name and address of the customer



- The amount and customary description of the supplied goods
- In case of transport by the supplier or on behalf of the supplier or customer, the place and date of receipt of the delivered goods in another EU member state
- In the case of transport by the customer, the date and place of the end of the transport in another EU member state

**Foreign-currency invoices.** If a German VAT invoice is issued in a foreign currency, the value must be converted to euros (€) using an official exchange rate. The following conversion rates may be applied:

- The actual bank-selling rate for the date of the supply (not the date of the invoice). The rate used must be evidenced by documentation issued by the bank (this must be allowed by the German tax authorities).
- The average monthly exchange rates published by the Federal Ministry of Finance shortly after the end of the month.

German law provides that the use of the official Ministry of Finance rates is the standard method of currency conversion for VAT purposes. Alternatively, the tax authorities may accept the use of bank selling rates by a taxpayer. However, neither the law nor any official guidelines specify how this acceptance is to be achieved. In particular, no formal obligation to ask for approval exists. In practice, many companies simply use bank selling rates, while others inform their tax office in advance and ask for acceptance.

## I. VAT returns and payment

**VAT returns.** In general, preliminary VAT returns are filed quarterly, but monthly returns must be filed if the VAT payable for the preceding year exceeded €7,500. However, if the VAT payable for the preceding year did not exceed €1,000, the taxable person may be exempted from filing preliminary returns. Newly established taxable persons must file monthly VAT returns for the first and second year of registration.

In general, preliminary VAT returns must be filed electronically.

The preliminary VAT return must be submitted by the 10th day after the end of the filing period. The VAT authorities must receive payment in full by the same day.

Because the regular filing deadline is relatively short, the VAT authorities allow a permanent one month filing and payment extension on written application. However, taxable persons that must submit monthly preliminary VAT returns must pay a special prepayment equal to 1/11 of the preceding year's VAT liability by the due date. This special prepayment is deducted from the VAT payable in the preliminary VAT return submitted for the month of December. Taxable persons that file returns on a quarterly basis are not required to make a special prepayment when they apply for a permanent filing extension.

**Annual return.** In all cases (monthly, quarterly or no preliminary returns), an annual VAT return must be submitted by 31 May of the year following the end of the VAT year. If a German tax advisor is engaged to prepare the VAT returns, the filing deadline is 31 December.

Annual tax returns for tax periods beginning after 31 December 2010 must be filed electronically, together with a qualified electronic signature. This change applies for the first time to annual tax returns for the 2011 calendar year, which are filed in 2012.

**Penalties.** If VAT return liabilities are paid late, penalty interest is charged at a rate of 1% per month of the tax liability.

If a VAT return is filed late, a fine of up to 10% of the assessed tax amount may be imposed, up to a maximum of €25,000. In addition, an enforcement fine of up to €25,000 may be charged.

Further sanctions apply to tax fraud.

## J. EU declarations

**INTRASTAT.** A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of its sales or purchases exceeds certain thresholds. Separate reports are used for intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches). Apart from deemed intra-Community supplies, any movement of goods to or from other member states is also subject to INTRASTAT reporting (for example, goods sent for repair).

The threshold for INTRASTAT Arrivals is €400,000. The threshold for INTRASTAT Dispatches is also €400,000.

The INTRASTAT returns are generally filed monthly, but they may be submitted more frequently. The submission deadline is the 10th working day of the month following the month in which the intra-Community movement of goods takes place.

Penalties may be applied for late filing or failure to submit an INTRASTAT return.

**EU Sales Lists.** If a German taxable person carries out intra-Community supplies, it must submit an EU Sales List (ESL) in addition to its VAT return. No ESLs are required for periods in which no intra-Community supplies are made. Effective from 1 January 2010, ESLs must be filed for supplies of both intra-Community goods and intra-Community services. Under prior law, ESLs were required only for supplies of goods.

The filing period for the ESL for supplies of goods is changed from quarterly filing to monthly filing. For supplies of services, the filing period is quarterly. For entrepreneurs who must file monthly ESLs for supplies of goods, an option is available to also file monthly ESLs for intra-Community supplies of services.

In addition, the possibility of a one-month extension of the filing deadline is abolished. However, the due date for filing is changed from the 10th day of the following month to the 25th day of the following month.

A taxable person that is exempt from filing preliminary VAT returns, and that has taxable turnover not exceeding €200,000 a year may request permission to file annual ESLs if its intra-Community supplies do not exceed €15,000 and do not include supplies of new means of transport to purchasers using VAT Identification Numbers. In this case, the submission deadline is the 10th day of the month following the calendar year.

Penalties may be imposed for late or inaccurate ESLs.

# Ghana

(Country code 233)

## Accra

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	18 March 1998
European Union (EU) member state	No
Member of the Economic Community of West African States	Yes
Administered by	Ghana Revenue Authority
VAT rates	
Standard	12.5%
National Health Insurance Levy	2.5% (increases overall VAT rate to 15%)
Flat rate scheme	3%
Other	Zero-rated and exempt
VAT number format	000V111111
VAT return periods	Monthly
Thresholds	
Registration	Turnover exceeding GH¢120,000 in 12 months, GH¢67,500 in 9 months, GH¢45,000 in 6 months or GH¢22,500 in 3 months
Flat rate scheme	Turnover below GH¢90,000 but exceeding GH¢10,000 in 12 months
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- Taxable supplies. VAT is payable by the persons making the supplies.
- Imported goods. VAT is payable by the importers.
- Imported services. VAT is payable by the recipients of the services.

### C. Who is liable

In general, all persons that make taxable supplies of goods and services in Ghana in the course of a business are liable to register as VAT vendors.

On registering a taxable person, the Commissioner-General must notify the person that it has been registered for VAT and must issue a certificate of registration to the taxable person.

**Group registration.** Ghana's VAT Act allows for group registration if each member of the group is a registered corporate body in Ghana and has an established place of business in Ghana and if one of the group members controls the others in the group or one company controls all of the members of the group.

**Nonestablished businesses.** A "nonestablished business," which is a business that does not have a fixed establishment in Ghana, cannot register for VAT purposes in Ghana. A foreign entity is not required to register for VAT unless it has a permanent establishment in Ghana and makes taxable supplies of goods and services in Ghana.

VAT on imported goods is generally paid by the importer.

**Late-registration penalties.** A person that is not registered but is required to apply to be registered under the VAT Act, is considered to be a taxable person from the beginning of the tax period immediately following the period in which the duty to register arises. A person that fails to apply for registration commits an offense. If the failure is deliberate or reckless, the person is liable on summary conviction to a fine of GH¢1,000.

### D. VAT rates

The normal VAT rate in Ghana is 15%, which consists of the standard VAT rate of 12.5% and the National Health Insurance Levy, which is imposed at a rate of 2.5%.

The other VAT rates are a rate of 3% under the flat rate scheme and a zero rate (0%) for exports.

Under the VAT flat rate scheme, taxable persons may charge a flat VAT rate of 3% for supplies of goods and services, but they may not claim a deduction for input VAT. VAT traders that charge VAT at the standard rate of 15% also account for the 3% VAT in their monthly returns.

No VAT is charged on items that are exempt or fall outside the scope of the VAT.

The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services (no VAT is charged)**

- Unprocessed agricultural and aquatic products in their raw state
- Transportation by bus and similar vehicles, and by train, boat and air
- Medical services
- Agricultural inputs, animals, livestock and poultry
- Transportation of passengers

### Examples of goods and services taxable at 0%

Exports of taxable goods

Exports of taxable services

Goods and services supplied to Free Zone Enclaves or a Free Zone Company

Goods shipped as stores (stocked for own use) on a vessel or aircraft leaving Ghana

### E. Time of supply

In Ghana, the time when VAT becomes due is referred to as the “time of supply” or the “tax point.” The following rules apply to the determination of the time of supply:

- If the goods or services are applied to the taxpayer’s own use, the tax point is the date on which the goods or services are first applied to the taxpayer’s own use.
- If the goods or services are supplied by gift, the tax point is the date on which ownership of the goods passes or the performance of the service is completed.

For all other cases, the time of supply is the earliest of the following events:

- The goods are removed from the taxable person’s premises or from the premises where the goods are under the taxable person’s control.
- The goods are made available to the person to whom they are supplied.
- The services are supplied or rendered.
- Payment is received.
- A tax invoice is issued.

**Imports.** The time of supply for imported goods is either the date of importation or the date on which the goods leave a bonded warehouse.

### F. Recovery of VAT by taxable persons

A taxable person may usually recover input tax charged on goods and services supplied by other taxable persons for business purposes. Input tax is claimed by deducting the input tax credits from output tax, which is VAT charged on supplies. Taxable persons must claim input tax within three years after making an expenditure.

The input VAT credit includes VAT charged on goods and services purchased in Ghana and VAT paid on imports of goods and services.

**Nondeductible input tax.** A taxable person may not usually recover VAT on the purchase of goods and services that are not used exclusively for business purposes. In addition, input tax may not be recovered with respect to certain business expenditure. If necessary, an apportionment of input tax between taxable goods and services and nontaxable goods and services is made.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for purposes of making a taxable supply (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

The purchase of a motor vehicle or spare parts unless the taxable person is in the business of dealing in or hiring motor vehicles, or selling vehicle spare parts

Entertainment including restaurants, meals, and hotel expenses, unless the taxable person is in the business of providing entertainment

A taxable supply to, or an import of goods by, a taxable person partly for business use and partly for personal or other use (the amount of input tax allowed as credit is restricted to that part of the supply that relates to business activity)

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

Business expenditure incurred in the production process (for example, VAT paid on material purchased for resale)

Raw material that is used for production

Office equipment

Advertising

**Partial exemption.** VAT paid that relates directly to goods and services that are exempt is not recoverable. If a registered person makes both exempt and taxable supplies, VAT cannot be recovered in full. This situation is referred to as “partial exemption.”

Section 26 of the VAT Act provides the following rules with respect to partial exemption:

- A taxable person that makes both taxable and exempt supplies may deduct the input tax on its taxable purchases and imports that can be directly attributed only to the taxable supplies made, except that if the fraction is less than 5%, the taxable person may not claim a credit for any input tax for the period.
- If a taxable person makes both taxable and exempt supplies, but cannot directly attribute the input tax to the taxable and exempt supplies, it may deduct as input tax an amount that bears the same ratio as the taxable supplies bear to the total supplies, applying an apportionment formula provided by the VAT Act.
- If the percentage calculated using the above formula is less than 5%, the taxable person may not claim credit for any input tax for the period.
- If the percentage calculated using the above formula is more than 95%, the taxable person may claim credit for all input tax for the period.

**Refunds.** Section 25 of the VAT Act provides the following rules regarding refunds of VAT credits:

- If the amount of deductible input tax exceeds output tax due, the excess amount is credited by the Commissioner-General to the taxable person, except that, in the case of exports, the Commissioner-General may refund the excess credit to the taxable person if the person's exports exceed 70% of the total supplies for the accounting period.
- A refund under the rule mentioned in the item above is made to the taxable person if the excess credit remains outstanding for a continuous period of three months or more.
- If the amount of input tax deductible in an accounting period exceeds the output tax due, in addition to submitting the return for that accounting period, the taxable person must submit a

claim for refund to the Commissioner-General and retain the tax invoices that relate to the accounting period for examination by the Commissioner-General.

- If the taxable person complies with the requirements mentioned above, if the return and refund claim are submitted by the due date and if the Commissioner-General fails to make the refund without justification within one month of receipt of the return and claim, the taxable person is entitled to interest at the prevailing Bank of Ghana discount rate plus one-quarter of that rate for each day the refund remains unpaid.

### **G. Recovery of VAT by nonresidents**

Ghana does not have a regime for the recovery of VAT paid by nonresidents leaving the country. Section 13 of the VAT Act indicates that refund of VAT charged on goods purchased by a person not resident or domiciled in Ghana for consumption outside Ghana may be authorized by the Commissioner-General subject to such written conditions that the Commissioner-General may impose. The Commissioner-General has not yet imposed any conditions for a refund.

### **H. Invoicing**

**VAT invoices.** On making a supply of goods and services, a taxable person must issue to the recipient of the goods or services tax invoices in a form prescribed by regulations.

A taxable person that issues a VAT invoice must retain a copy of the invoice in a serial invoice order.

The invoice must contain specific information detailed in the VAT Act.

**Proof of exports.** Exports are zero-rated. All exports must be supported by evidence proving that the goods have left Ghana. The Export Promotion Council requires detailed documentation for exports.

**Foreign-currency invoices.** Ghana does not have a mandatory rule regarding foreign-currency invoices that have been translated into Ghanaian currency. The general practice is to use the exchange rate prevailing on the date of the transaction for the translation. The tax office may check the exchange rate used to translate the Ghana cedi into the foreign currency or vice versa if some doubt exists. If no doubt exists, the tax office accepts the taxpayer's translation of a foreign-currency-denominated invoice into cedi.

### **I. VAT returns and payment**

**VAT returns.** VAT returns must be filed on a monthly basis. They are due one month in arrears. Payment is due in full at the same time the returns are filed. A nil return must be filed if no VAT is payable or claimable.

If the normal filing date falls on a public holiday or on a weekend, the VAT return must be filed on the last working day before that day.

Ghana does not yet have an e-filing system, but the administrative procedures for e-filing are currently being prepared. Returns

may be filed by mail, but this may not be efficient and may result in delays.

**Penalties.** The following penalties are imposed for noncompliance with the VAT regime:

- Failure to register, notify the Commissioner-General of a change in business or apply for cancellation of registration: penalty of GH¢1,000 or imprisonment for a term not exceeding five years or both
- Failure to issue a VAT invoice: a fine of GH¢1,000 or imprisonment for a term not exceeding five years or both
- Making a statement to an officer of the Ghana Revenue Authority that is false or misleading, omitting from a statement any matter or item without which the statement is misleading: a fine not exceeding GH¢1,000 or imprisonment for a term not exceeding five years or both
- Falsification and alteration of documents: a fine of GH¢200 but not exceeding GH¢1,000 or imprisonment for a term not exceeding five years or both
- Evasion of tax payments: a fine not exceeding three times the tax that is being evaded or imprisonment for a term not exceeding five years or both
- Failure to maintain proper records: a fine not exceeding GH¢1,000 or imprisonment for a term not exceeding five years or both
- Obstruction of officer of the Ghana Revenue Authority: a fine of not less than GH¢50 but not exceeding GH¢500 or imprisonment for a term not exceeding one year

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*This chapter is updated through March 2012. At the time of final review of the chapter, it was widely anticipated that amendments would be introduced in various areas of value-added tax (VAT) law, such as VAT rates and VAT refund rules. Because of the possible changes to the VAT law, readers should obtain updated information before engaging in transactions.*

### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Foros prostithemenis aksias (FPA)
Date introduced	1 January 1987



European Union (EU) member state	Yes
Administered by	Ministry of Finance ( <a href="http://www.gsis.gov.gr">http://www.gsis.gov.gr</a> )
VAT rates	
Standard	23%
Reduced	6.5%/13%
Other	Exempt and exempt with credit
VAT number format	EL 1 2 3 4 5 6 7 8 9
VAT return periods	
Monthly	Category C (turnover exceeding €1,500,000)
Quarterly	Category B (turnover below €1,500,000)
Annual	All businesses
Thresholds	
Registration	None
Distance selling	€35,000
Recovery of VAT by nonestablished businesses	Yes (for businesses established in Norway, Switzerland or the EU)

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Greece by a taxable person
- Reverse-charge services received by a taxable person in Greece
- The intra-Community acquisition of goods from another EU member state by a taxable person
- The importation of goods and certain services from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of Greece excludes Mount Athos.

## C. Who is liable

A taxable person is any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions, imports of goods into Greece or distance sales (if the relevant annual threshold is exceeded), in the course of a business in Greece.

Greece does not apply a VAT registration threshold. A taxable person that begins activities in Greece must notify the Greek VAT authorities of its liability to register. This rule also applies to “nonestablished businesses” (see *Nonestablished businesses*).

**Group registration.** VAT grouping is not permitted under Greek VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have an establishment in Greece. A foreign or nonestablished business must register for VAT in Greece if it engages in any of the following taxable activities:

- Supply of goods that are located in Greece at the time of supply
- Intra-Community acquisitions

- Distance sales in excess of the annual threshold (€35,000)
- Imports
- Services to which the reverse charge does not apply

The reverse charge generally applies to supplies made by non-established businesses to taxable persons. Under this measure, the taxable person that receives the supply must account for the Greek VAT due. If the reverse charge applies, the nonestablished business is not required to register for Greek VAT.

The reverse charge does not apply to supplies of goods or services made to private persons.

**VAT representatives.** A nonestablished business that has no permanent establishment in Greece must appoint a VAT representative to register for VAT. The representative must be given, among other documents required by law, a power of attorney to act on behalf of the nonestablished business. Under the Greek VAT law, the representative must be appointed and registration obtained before the nonestablished business begins to make taxable supplies.

An EU business is not required to appoint a full VAT representative to register for VAT in Greece. Instead, it may appoint a limited representative. The limited representative undertakes compliance procedures and may be held jointly liable for VAT debts and liabilities. An EU business that is required to register must obtain a Greek VAT registration number before making taxable supplies in Greece and must appoint a limited representative. The limited representative may be any person engaged by the business who is resident and VAT liable in Greece (such as a legal entity or an accountant). Under this system, the foreign business may issue its invoices from abroad, under its Greek VAT registration number. The representative must account for Greek VAT, submit VAT returns and maintain the accounting books on the basis of the invoices, which may be issued directly by the foreign company.

The Greek VAT authorities require a full VAT representative to be appointed by all non-EU businesses that register for VAT. The full representative is jointly liable for VAT debts with the foreign business that it represents.

**Late-registration penalties.** A penalty may be imposed for late registration. The amount of the penalty ranges from €117 to €1,170, at the discretion of the VAT authorities. The penalty may be reduced to 1/3 of the amount originally imposed after negotiation.

## D. VAT rates

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

In Greece, the VAT rate depends on where the supply is made. In the Cyclades, Dodecanese and the Sporades, as well as certain Aegean Islands, the standard rate is 16%. The reduced rates in these areas are 9% and 5%. In the remaining territory of Greece, the standard rate is 23%, and the reduced rates are 13% and 6.5%.

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Postal services

Finance

Insurance

Sales and rental of immovable property

Medical services supplied by public law and other not-for-profit organizations

Healthcare

Education

#### **Examples of goods and services taxable at 13% (9% in certain islands)**

Foodstuffs

#### **Examples of goods and services taxable at 6.5% (5% in certain islands)**

Books

Newspapers

Magazines

Hotel accommodation services

### **E. Time of supply**

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

**Goods.** The basic time of supply for goods is when the goods are put at the purchaser’s disposal. If the supplier undertakes the obligation to forward the goods to the buyer, the time of supply is at the beginning of the transportation. For installed goods, the time of supply is when installation is completed. If the supplier issues an invoice before the basic time of supply, the time of supply becomes the invoice date.

**Services.** In general, the time of supply for services is when they are performed. If the supplier issues an invoice before the basic time of supply, the time of supply is the invoice date.

**Prepayments.** Payments received before the supply of goods or services or the issuance of a VAT invoice are known as advance payments. Advance payments do not generally create a tax point (they create a tax point only in the event of an intra-Community supply of goods or services).

**Intra-Community acquisitions of goods.** For intra-Community acquisitions, the time of supply is when the goods are put at the

purchaser's disposal. If the supplier undertakes the obligation to forward the goods to the buyer, the time of supply is the beginning of the transportation. VAT is due on the issuance of an invoice, or by the 15th day of the month following the month in which the supply took place, whichever is the earlier.

**Imported goods.** The time of supply for an importation is when the importation occurs or when the goods leave a duty suspension regime.

## F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied within Greece, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse-charge services.

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

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

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Hotel accommodation  
 Business gifts valued at more than €10  
 Lease, purchase, hire and maintenance of cars  
 Fuel for cars  
 Business entertainment  
 Home telephone bills  
 Taxis  
 Public transport  
 Food, drink and tobacco

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

Books  
 Attending conferences and seminars  
 Lease, purchase, hire and maintenance of vans and trucks  
 Fuel for vans and trucks  
 Mobile telephones  
 Utilities

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. If a Greek taxable person makes both exempt and taxable supplies, it may not recover input

tax in full. This situation is referred to as “partial exemption.” Exempt with credit supplies are treated as taxable supplies for these purposes.

The amount of input tax that may be recovered is calculated in the following two stages:

- The first stage identifies the input VAT that may be directly allocated to taxable supplies and exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, on general business overhead) that may be allocated to taxable supplies and recovered. The calculation is based on the value of taxable supplies made compared with total turnover. The partial exemption recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 75.1% is rounded up to 76%).

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

In Greece, the capital goods adjustment applies to the following assets for a period of five years:

- Land and buildings
- Other movable capital assets

The adjustment is applied each year following the year of use to a fraction of the total input tax (1/5 for all capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

**Refunds.** If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. If a preliminary VAT return results in an input VAT credit, the amount is carried forward to offset output VAT payable in subsequent periods.

If a business terminates its taxable activity, a refund of any excess input VAT is mandatory. For an ongoing business, if set-off is not possible, in principle, the excess credit may be requested as a refund on the basis of a petition filed with the appropriate VAT authorities following the submission of the annual VAT return. Exceptionally, a refund claim may be filed following the submission of a periodic VAT return if the statute-of-limitations period for the claim will end before the deadline for the submission of the annual VAT return. The statute-of-limitations period is three years. It begins at the end of the year in which the annual return giving rise to the VAT credit balance is submitted. The refund is made on the basis of a temporary inspection performed by the appropriate tax authority. In principle, refunds must be paid within four months after the submission date of the claim. However, in practice, the statutory deadline is not respected and refunds are generally delayed.

Refunds of VAT are also made in other circumstances, such as for VAT incurred on the purchase of investment goods or for input VAT that relates to goods and services used for making supplies that are exempt with credit. In general, the following rules apply:

- A refund claim may refer to either one or more tax periods or a whole fiscal year.
- In principle, 90% of the VAT amount claimed must be refunded within the statutory deadline of one month after the submission date of the refund claim (petition) on the basis of the documents accompanying the refund claim. However, in practice, the one-month refund deadline is not always met.
- The remaining 10% of the VAT amount claimed is refunded within the fiscal year in which the clearance VAT return is filed. If the total VAT to be refunded exceeds €6,000, a tax audit is performed before the 10% is refunded.
- The first time a VAT refund claim is filed, a temporary tax inspection is performed before the refund of any VAT amount.

Effective from 1 July 2010, for VAT refund applications filed by Greek taxable persons (including foreign taxable persons registered for VAT purposes in Greece), VAT in excess of €30,000 is not refunded unless a final or provisional tax audit control has been completed. In certain cases, VAT refunds up to the amount of €30,000 are allowed without a prior tax audit control. However, taxable persons entitled to a VAT refund may offset this VAT refund claim against any VAT payable to the Greek state under certain conditions. The above €30,000 limit on VAT refunds does not apply to VAT refund applications filed in accordance with the EU 8th and 13th VAT Directives by foreign (EU or non-EU [that is, Norwegian or Swiss] taxable persons not registered for VAT purposes in Greece).

### **G. Recovery of VAT by nonestablished businesses**

Greece refunds VAT incurred by EU businesses that are neither established in Greece nor registered for VAT there. Refund is made under the terms of the EU Directives 2006/112/EC and 2008/9/EC. Greece does not yet refund VAT under the terms of the EU 13th Directive (Directive 86/560/EEC) to businesses established outside the EU, with the exception of businesses established in Norway and Switzerland. A Norwegian, Swiss or EU business may claim Greek VAT refunds to the same extent as a Greek taxable person.

**Refund application.** Greece has incorporated into its VAT law the provisions of EU Directive 2008/9/EC, which provides detailed rules for the refund of value-added tax, provided for in EU Directive 2006/112/EC, to taxable persons not established in Greece but established in another EU member state. These measures took effect on 1 January 2010 and applied for the first time to refund claims of foreign businesses with respect to Greek VAT incurred in 2009. In accordance with EU Directive 2008/9/EC, VAT refund applications must be submitted electronically.

According to the guidelines issued by the Greek VAT authorities on the procedure for the 8th VAT Directive rules, the refund application must be submitted by 30 September of the calendar year following the refund period. Claims must be submitted electronically in either Greek or English and must be accompanied by

scanned copies of relevant invoices placed in an electronic archive or file. The refund period must be no longer than one calendar year (the minimum VAT claim amount is €50) or less than three calendar months (the minimum VAT claim amount is €400). The appropriate Greek authority for this purpose is the following:

The Hellenic Republic  
 Ministry of Finance, VAT Division  
 Directorate of VAT Administration and Resources  
 Sina 2-4  
 10672 Athens  
 Greece

**Repayment interest.** If the refund application is approved, refund of the approved amount must be paid within 10 working days after the expiration of the deadline to respond. Interest is payable to the applicant on the amount of the refund to be paid if the refund is paid after the last date for payment. Interest due is calculated according to the rules applicable for payment of default interest to Greek taxable persons.

## H. Invoicing

**VAT invoices and credit notes.** A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. A document qualifies as a valid invoice if it complies with requirements set out in the Greek law (the Code of Books and Records).

A valid original VAT invoice is required to support a claim for input tax deduction or a refund under the EU 8th Directive refund scheme. Invoices must comply with requirements in the Greek Code of Books and Records to qualify as valid evidence to support input tax deductions.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must be cross-referenced to the original VAT invoice.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods. However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence confirming that the goods have left Greece. Acceptable proof includes the following documentation:

- For an export, copies of the export document, officially validated by customs and showing the supplier as the exporter, and the bill of lading issued by the transporter
- For an intra-Community supply, a range of commercial documentation, such as dispatch notes, the bill of lading and proof of payment

**Foreign-currency invoices.** If an invoice is received in a foreign currency, the amounts must be converted into euros. The exchange rate to be used is issued by the Ministry of Finance. An invoice may be issued in foreign currency if Greece is the place of supply of goods or services and if the amount of VAT payable is indicated in euros.

## I. VAT returns and payment

**VAT returns.** Greek VAT returns are submitted monthly if turnover exceeds €1,500,000 per year. If turnover is less than €1,500,000, VAT returns are submitted quarterly. In addition, all taxable persons must submit annual VAT returns.

In principle, filing of VAT returns and full payment of the VAT due must be made by the 20th day of the month following the end of the return period. However, taxpayers have the option of paying 40% of the VAT amount due when filing a timely periodic VAT return and paying the remaining amount, increased by 2% as a result of the late payment of such amount, in two equal monthly installments. The amount of VAT paid in each installment may not be less than €300. In all other cases of filing a periodic or an annual VAT return, the total amount of VAT due must be paid at the time of filing the VAT return.

No periodic return is required if a taxable person has suspended its business activity and has declared such suspension with the appropriate tax office. Businesses that submit monthly VAT returns must file periodic VAT returns electronically. The deadline for submission of the return and payment by bank transfer is the 26th day of the following month. Electronic submission does not apply to late VAT returns.

**Annual VAT return.** A final (annual) VAT return must be filed by the 25th day of the second month following the end of the financial year (for businesses that file quarterly VAT returns) or by the 10th day of the fifth calendar month following the end of the financial year (for businesses that file monthly VAT returns).

**Penalties.** Penalties are charged for late or inaccurate VAT returns and for the failure to file VAT returns, in the following amounts:

- For late filing, additional tax is imposed at a rate of 1.5% monthly, up to a maximum of 60% of the VAT due.
- For inaccurate filing, additional tax is imposed at a rate of 3% monthly, up to a maximum of 120% of the VAT due.
- For failure to file, additional tax is imposed at a rate of 3.5% monthly, up to a maximum of 120%.

Penalties for VAT returns that are not accurate or not filed may be reduced to 3/5 if an out-of-court settlement is agreed upon with the VAT authorities.

## J. EU declarations

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

For 2012, the threshold for INTRASTAT Arrivals is €115,000.

For 2012, the threshold for INTRASTAT Dispatches is €90,000.

The INTRASTAT return period is monthly. The submission deadline is the 20th day of the month following the end of the INTRASTAT return period. Businesses that submit periodic VAT returns on a monthly basis through electronic means must file



INTRASTAT returns using the same deadline, which is the 26th day of the following month.

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

The amount of the penalty, which may range from €117 to €1,170, is at the discretion of the VAT authorities. The penalty may be mitigated by up to one-third.

**EC Listings.** EC Listings for cross-border supplies of both goods and services within the EU performed on or after 1 January 2010 are filed on a monthly basis. Separate forms must be filed for intra-Community dispatches (sales or supplies of services or goods) and for intra-Community acquisitions or receipt of services. In principle, EC Listings must be filed electronically through TAXISnet (that is, the electronic application of the Greek Ministry of Finance) by the 26th day of the month following the reporting period. Late or corrected EC Listings must be filed in paper format only with the appropriate Tax Office. It is not necessary to file nil EC Listings for a month in which no intra-Community transactions take place. EC Listings must include business-to-business (B2B) services supplied on a cross-border basis only if these services are taxable in the country of the recipient. On the contrary, EC Listings should not include services that are exempt from VAT in the country of the recipient business. Taxable persons required to file EC Listings must verify through the VAT Information Exchange System (VIES) the VAT identification number of their customers before engaging in intra-Community transactions.

Penalties may be incurred for inaccurate or late or missing EC Listings. The penalties may range from €117 to €1,170. The amount assessed is at the discretion of the VAT authorities. The penalty may be mitigated by up to one-third.

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## Guatemala

(Country code 502)

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### Guatemala City

**GMT -6**

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	1 July 1992
European Union (EU) member state	No
Administered by	The Tax Administration Superintendence (SAT) ( <a href="http://www.sat.gob.gt">http://www.sat.gob.gt</a> )
VAT rates	
Standard	12%
Reduced	5% on gross sales for taxpayers with annual turnover of less than GTQ 60,000 (approximately US\$7,682) with no input tax recovery
Other	Exempt and zero-rated; and a fixed amount on purchases of used vehicles and motorcycles
VAT number format	Tax identification number (NIT)
VAT return periods	Monthly Quarterly for taxable persons with annual turnover of less than GTQ 60,000 (approximately US\$7,682)
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The sale or exchange of movable goods or rights derived from movable goods
- The rendering of services within Guatemala
- Imports
- Leasing of movable and immovable property
- Consumption by the taxpayer and consumption by the employees, executives, directors and shareholders of a company or their family members
- Certain shortages of inventory such as those derived from missing goods (for example, shrinkage) or damaged goods
- Sale or exchange of immovable assets

- Certain donations
- Contributions of immovable property to legal entities if the assets have been previously contributed to a real estate entity

### C. Who is liable

Any business entity or self-employed individual that carries out taxable activities on a regular or periodic basis must register for VAT. Taxable persons whose annual turnover does not exceed GTQ 60,000 (approximately US\$7,682) may elect to be taxed under a simplified VAT regime.

**Group registration.** VAT grouping of separate legal entities is not allowed in Guatemala. Legal entities that are closely connected must register for VAT separately.

**Small taxpayers.** Small taxpayers with annual turnover of up to GTQ 60,000 (approximately US\$7,682) may apply for a simplified regime. Under the simplified regime, taxpayers pay tax at a rate of 5% based on their gross taxable sales without a right to credit or deduct VAT input tax (see Section F).

**Nonestablished businesses and tax representatives.** A “nonestablished business” is a business that has no fixed establishment in Guatemala. A nonestablished business must register for VAT if it supplies goods or services in Guatemala. To register for VAT, a nonestablished business must take the following actions:

- Appoint a tax representative
- Provide the tax authorities with a copy of its Articles of Incorporation, legalized by a Guatemalan consulate, together with an official translation in Spanish

**VAT withholding for nondomiciled individuals.** If a nondomiciled individual renders an occasional, temporary service in Guatemala (or performs another taxable activity) without being registered for VAT, the local beneficiary of the service may be able to issue a “special invoice” for VAT withholding.

**VAT withholding agents.** Large taxpayers may be designated as VAT withholding agents for payments made relating to the acquisition of goods and services. This measure also applies to other special taxpayers expressly qualified as withholding agents (for example, exporters, government entities, and credit card operators). VAT withholding generally applies to the following (certain exemptions regarding minimum amounts may apply):

- Regular exporters (a minimum monthly average exports of GTQ 100,000 [approximately US\$12,804]): 65% of VAT generated from the purchase of agricultural and cattle products, and 15% of VAT generated for other acquisitions
- Drawback entities: 65% of the VAT generated
- Government entities (excluding municipalities): 25% of the VAT generated
- Credit and debit card operators: 15% of the VAT generated on transactions carried out by affiliated entities
- Gas stations: 1.5% withholding on the gross amount of acquisitions of gasoline
- Special taxpayers: 15% of the VAT generated
- Other withholding agents: 15% of the VAT generated

In principle, the VAT withholding mechanism does not apply to transactions between withholding agents, unless the acquisition is made by credit or debit card (in such case, the taxpayer applies the VAT withholding as described above).

**Late-registration penalties.** A taxpayer that fails to register for VAT on a timely basis cannot offset VAT credits generated from purchases that are included in inventory at the time of registration.

The tax authorities may impose penalties and interest for late VAT registration.

## D. VAT rates

In Guatemala, the standard VAT rate is 12%. The standard rate applies to the supply of all goods or services, unless a specific measure allows an exemption. A 5% rate on gross sales applies to small taxpayers.

The 12% VAT rate applies to sales of vehicles and motorcycles if the transaction takes place within the first three years after the date of the vehicle or motorcycle's manufacture. For used vehicles and motorcycles, a fixed amount of VAT applies ranging from GTQ 50 to GTQ 500 (US\$6 to US\$64), depending on the year of manufacture. In addition to activities that are subject to tax, some activities are exempt and zero-rated. Exports of goods and services are zero-rated (see Section F).

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

### Examples of exempt supplies of goods and services

Transfer of assets in a merger

In-kind contributions of movable property to a legal entity

In-kind contributions of immovable property if the property had not been previously contributed to a real estate entity

Supplies by cooperatives to their members

Low-value retail sales of meat, fish, seafood or shellfish, fresh fruits and vegetables, cereals and basic grains in cantonal and municipal markets

Certain financial services

Education

Certain insurance and reinsurance transactions

## E. Time of supply

The time when the taxable event is considered to be completed and VAT becomes due is called the "tax point." For a supply or exchange of goods, the tax point is the earlier of the issuance of the invoice or the delivery of goods. For a supply of services, the tax point is when the invoice, receipt or other document related to the transaction is issued. If no invoice is issued, the tax point is at the time of payment.

**Shortages of inventory.** The tax point for shortages of inventory is when the shortage is discovered.

**Leasing and continuous supplies of services.** For leasing and a continuous supply of services for which the customer pays periodically, the tax point is the due date for each periodic payment.

**Imported goods.** The time of supply for imported goods is when the goods clear all customs formalities for importation.

**Insurance and bonds.** The tax point for insurance and bonds is when the premiums or quotas are received.

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax. Input tax is VAT paid on the purchase of goods and services used to generate other goods and services subject to tax. Input tax is generally credited against output tax, which is VAT charged or collected on the sale of goods and the rendering of services. To deduct or credit input tax, certain conditions must be met. Input tax may be deducted or credited in the month when the invoice is received or in the following two months.

In general, input tax paid on imports or purchases of goods and services is creditable.

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

Payments in excess of GTQ 50,000 (approximately US\$6,402) must be made using the banking system or using a deed from a notary public, in which the payer and the beneficiary are clearly identified.

**Nondeductible input tax.** Input tax may not be recovered on imports or purchases of fixed assets not related to the taxpayer's business activity.

**Refunds.** If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxpayer obtains an input VAT credit. The credit may be carried forward to offset output tax in subsequent VAT periods.

Qualified exporters may claim a refund of VAT paid on inputs. The Bank of Guatemala (central bank) maintains a registry of qualified exporters.

To qualify for the registry of exporters, the taxpayer must provide the Bank of Guatemala with documents that prove it satisfies one of the following conditions:

- It exports 50% or more of its gross sales.
- It exports less than 50% of its gross sales, but it is not able to fully offset its input tax credit related to its exports against its output tax generated from domestic supplies.

Taxpayers registered as exporters may file a refund request with the Bank of Guatemala within 30 business days following the end of the period for which the refund is claimed. No refunds are granted for amounts of up to GTQ 2,000 (US\$256). For refund requests greater than GTQ 2,000 (US\$256), the Bank of Guatemala partially refunds the VAT paid by exporters in the following percentages:

- 75% of refund amounts of up to GTQ 500,000 (approximately US\$64,103)
- 60% of refund amounts greater than GTQ 500,000

The remaining 25% or 40% is carried forward to the future periods, or the exporter may request a refund directly from the tax authorities.

Qualified taxpayers may also request VAT refunds based on an opinion issued by a registered certified public accountant.

A nonqualified exporter may request a 100% VAT refund from the tax authorities directly if the exporter is not able to credit VAT on inputs against VAT on outputs.

### **G. Recovery of VAT by nonestablished businesses**

Guatemala does not refund VAT incurred by foreign or nonestablished businesses unless they are registered as Guatemalan VAT taxpayers.

### **H. Invoicing**

**VAT invoices, credit notes and debit notes.** A taxable person must generally provide a VAT invoice for all taxable supplies made. VAT invoices, credit notes and debit notes must be authorized by the tax authorities. An invoice is generally necessary to support a claim for an input tax credit. If the nature of the business makes it impractical for a taxpayer to issue tax invoices, the tax authorities may authorize the use of cash registers and other computerized systems to issue receipts instead of invoices.

A VAT debit note must be used to increase the VAT chargeable if the value of a supply increases for any reason. A VAT credit note must be used to reduce the VAT charged and claimed on a supply if the value is reduced for any reason (for example, the granting of a discount, a change in the price or a return of the goods). A debit note or credit note must include the same information as a tax invoice.

Companies and individuals qualified by the tax authorities as Special Contributors must register as Authorized Issuers of Electronic Invoices (Emisores de Facturas Electrónicas, or EFACE) with the tax authorities. Accordingly, they must issue their invoices through electronic means (Facturación Electrónica, or FACE). The timing for compliance with this rule depends on the number of invoices issued annually by the taxpayer. The starting dates range from 1 January 2012 for taxpayers that issue more than 1 million invoices per year to 1 March 2013 for taxpayers that issue up to 500 invoices per year.

**Exports.** Exports of goods and services are zero-rated. However, to qualify as zero-rated, exports must be supported by customs documents that give evidence of the outbound process. Suitable evidence also includes export invoices and bills of lading.

**Foreign-currency invoices.** VAT invoices must be issued either in Guatemalan quetzals (GTQ) or in U.S. dollars (\$). However, invoices issued in U.S. dollars must show the exchange rate used on the date of the transaction.

### **I. VAT returns and payment**

**VAT returns.** VAT returns are generally submitted monthly. VAT due must be paid in full by the end of the month following the month in which the return is submitted.

Taxpayers whose annual turnover does not exceed GTQ 60,000 (approximately US\$7,682) may pay VAT quarterly. The due date is 10 days following the end of the quarter.

**Penalties.** Nonpayment of VAT results in a penalty equal to 100% of the unpaid amount. If the penalty is paid voluntarily by the date required by the VAT authorities, the penalty is reduced to 50%.

**Violation of formal duties.** The late filing of VAT returns is subject to a penalty ranging from GTQ 30 (approximately US\$4) per day, up to a maximum of GTQ 600 (approximately US\$77). If the return is filed voluntarily, the late-filing penalty may be reduced to 25% of the original amount.

**Tax fraud.** Tax fraud occurs when information has been altered in a manner that causes the tax authorities to incorrectly compute the amount of tax due. The penalty consists of 100% of the amount of the tax plus imprisonment from one to six years.

The tax fraud penalty may not be imposed together with penalties for late payment.

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## Honduras

(Country code 504)

*Please direct all inquiries regarding Honduras to the persons listed below in the San José, Costa Rica office of Ernst & Young.*

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**A. At a glance**

Name of the tax	Value-added tax (VAT) or sales tax
Local name	Impuesto sobre ventas
Date introduced	1 January 1964
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.dei.gob.hn">http://www.dei.gob.hn</a> )
VAT rates	
Standard	12%
Higher	15%
Other	Exempt
VAT number format	National tax registry number (RTN)
VAT return periods	Monthly Annually (taxable turnover greater than L 180,000 [approximately US\$9,426])
Thresholds	
Registration	None
Exoneration from VAT filing	Annual taxable turnover below L 180,000 (approximately US\$9,426)
Small taxpayer	Annual taxable turnover below L 180,000 (approximately US\$9,426)
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of taxable goods or services made in Honduras by a taxable person
- Self-consumption
- The importation of goods or services from outside Honduras, regardless of the status of the importer, with the exception of exempt goods or services

**C. Who is liable**

A taxpayer for VAT purposes is any entity or individual that supplies taxable goods or services in Honduras in the ordinary course of a trade or business. Taxpayers that deal primarily with final consumers may be designated as withholding agents for VAT. All businesses must register as taxpayers; no separate registry for VAT taxpayers exists. The national tax registry number (RTN) is used for VAT purposes.

**Small businesses.** Taxpayers whose annual turnover is less than L 180,000 (approximately US\$9,426) are not required to pay VAT or file VAT returns.

**Group registration.** VAT grouping is not allowed under the Honduran VAT law. Legal entities that are closely connected must register for VAT as separate entities.



**Nonestablished businesses and tax representatives.** A “nonestablished business” is a business that has no fixed establishment in Honduras. A nonestablished entity is required to register as a taxpayer if it engages in business activities within Honduras. Foreign taxpayers must complete a tax questionnaire, which includes information such as the names of the current shareholders and the projected sales during the first year. This information must be submitted together with the following documents:

- A copy of the Articles of Incorporation, together with an official translation in Spanish
- A special power of attorney granted to a legal representative in Honduras

The above documents must be legalized by the Honduran Consul in the foreign taxpayer’s country of residence.

**Late-registration penalties.** A taxpayer that fails to register for VAT on a timely basis is subject to a penalty equal to three average current base salaries. The average base salary for 2011 is L 5,524.65 (approximately US\$289).

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are subject to VAT. The term “exempt supplies” refers to supplies of goods and services that are not subject to tax. Exempt supplies do not give rise to a right to an input tax deduction.

In Honduras, the standard rate of VAT is 12%. A higher VAT rate of 15% is charged on the import and supply of alcoholic beverages, cigarettes and other tobacco products.

The standard rate applies to the supply of all goods or services, unless a specific measure imposes a higher rate or allows an exemption.

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

##### **Examples of exempt supplies of goods and services**

Goods that form part of the average weekly shopping  
 Pharmaceutical products  
 Cleaning fluids and disinfectants  
 Agrochemicals, fertilizers, animal feed, seeds and live animals  
 Transfer of assets in a merger or liquidation  
 Medical services  
 Services supplied by barbers and beauty salons  
 Personal insurance and reinsurance  
 Gasoline, kerosene and related oil products  
 Firewood and coal  
 Books and newspapers  
 Leather, except fine leather goods  
 Water and electrical services  
 Education  
 Passenger transport  
 Financial services

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “taxable event.”

For the supply of goods, the time of supply is the earlier of the issuance of the invoice or the delivery of the goods. For a supply of services, the time of the supply is the earlier of the issuance of the invoice or the performance of the services.

**Importation.** The time of supply for imported goods is when the goods are “nationalized,” that is, when the goods clear all customs formalities for importation. For the importation of services, the time of supply is the earlier of the issuance of the invoice or the performance of the services.

### **F. Recovery of VAT by taxable persons**

A taxpayer may recover input tax, which is VAT charged on goods and services supplied that are used to generate taxable income. Input tax is generally recovered by a deduction from output tax, which is VAT charged on supplies made. Input tax may be deducted in the month in which the invoice is received or in the following month.

Input tax includes VAT charged on goods and services supplied in Honduras, VAT paid on imports of goods and reverse-charge VAT on domestic self-consumption of services. The input tax credit is available only for goods and services acquired to generate income and for the purchase of machinery and equipment.

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

**Refunds.** If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxpayer obtains an input VAT credit. The credit may be carried forward to offset output tax in subsequent VAT periods. If the credit is not offset after a certain period (which is not determined by law), based on an authorization granted by the tax authorities, the taxpayer may use the excess to offset payment of other taxes, tax penalties and fines.

### **G. Recovery of VAT by nonestablished businesses**

Honduras does not refund VAT incurred by foreign or nonestablished businesses unless they are registered for VAT in Honduras.

**Diplomats and international organizations.** Diplomatic consular delegations, and international organizations and agencies are entitled to reimbursement for VAT paid in Honduras. Depending on the claimant’s status, the claimant may request a refund of the VAT or exercise the right to offset the VAT credit by making subsequent purchases subject to VAT. If the credit has not been offset after six months, the amount may be applied against other taxes.

### **H. Invoicing**

**VAT invoices and credit and debit notes.** A taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. An invoice is generally necessary to support a claim

for input tax credit. If the nature of the business makes it impractical for a taxpayer to issue tax invoices, the VAT authorities may authorize the use of cash registers and computerized systems to issue receipts instead of invoices.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply if the value is reduced for any reason (for example, the granting of a discount or bonus, a change in price or the return of the goods). A credit note must generally include the same information as a tax invoice.

**Proof of export.** VAT does not apply on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that prove the goods have left Honduras. Suitable evidence includes export invoices and bills of lading.

**Foreign-currency invoices.** VAT invoices must be issued in Honduran lempira (L).

## I. VAT returns and payment

**VAT returns.** VAT returns are generally submitted monthly. Monthly returns must be submitted by the 10th day of the month following the end of the return period. Payment in full is due on the same date.

Taxable persons whose annual turnover is over L 180,000 (approximately US\$9,426) must file VAT returns annually. The filing deadline is 30 days following the end of the return period.

Taxable persons whose annual turnover is below L 180,000 (approximately US\$9,426) are not required to file VAT returns or pay VAT.

Return liabilities must be paid in Honduran lempira.

Effective from November 2010, large taxpayers are required to withhold 12% VAT on payments related to the following:

- Transportation services
- Cleaning and fumigation services
- Printing and screen printing services
- Investigation and security services
- Commercial sites and machinery and equipment rent

Monthly withholding returns must be submitted by the 10th day of the month following the end of the return period. Payment in full is due on the same date.

In addition, large taxpayers are required to file a monthly 12% VAT information withholding tax return, which reports all of the purchased services subject to the 12% VAT withholding tax.

The monthly information returns must be submitted by the 15th day of the month following the end of the return period.

**Penalties.** The penalty assessed for the late submission of a VAT return is 1% if filed within five days after the filing date. If the tax liability is not paid within these five days, a 2% monthly penalty applies instead.

The surcharge assessed for the late filing of a VAT return is 5% per month, up to 60% if the tax liability is not paid by the 10th day of the month following the end of the return period.

**Violation of formal duties.** Failure to file and satisfy reporting obligations in Honduras is subject to a penalty of three base salaries (the current minimum base salary is approximately US\$289). Such penalties apply to the following:

- Failure to maintain accounting books or records as required by law
- Providing false information when registering for VAT
- Not registering with the proper tax authorities
- Refusing to provide information to the tax authorities

**Tax fraud.** Tax fraud is deemed to occur if a taxpayer files a return that results in the underpayment of taxes as a result of illegal actions. The Penal Code provides the following prison terms for tax evasion:

- 3 to 6 years of imprisonment if the amount does not exceed L 100,000 (approximately US\$5,237)
- 3 to 9 years of imprisonment if the amount does not exceed L 500,000 (approximately US\$26,183)
- 6 to 12 years of imprisonment if the amount exceeds L 500,000 (approximately US\$26,183)

In addition, a fine equal to 50% of the underpaid VAT applies. If the underpaid VAT cannot be calculated, the applicable fine is calculated based on the assessment issued by the tax authorities.

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## Hungary

(Country code 36)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Általános forgalmi adó
Date introduced	1 January 1988
European Union (EU) member state	Yes

Administered by	Ministry of Finance ( <a href="http://www.pm.gov.hu">http://www.pm.gov.hu</a> ) Hungarian Tax Office ( <a href="http://www.apeh.hu">http://www.apeh.hu</a> )
VAT rates	
Standard	27%
Reduced	5%/18%
Other	Exempt
VAT number format	12345678-2-34
VAT return periods	
Quarterly	General
Monthly	If net VAT payable in the tax year or in the second year preceding the current year exceeds HUF million or if VAT grouping is applied
Annual	If net tax payable or reclaimable in the second year preceding the current year did not exceed HUF 250,000 and if the taxpayer does not possess an EU VAT number
Thresholds	
Registration	HUF 5 million
Distance selling	€35,000
Intra-Community acquisitions	€10,000
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Hungary by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services and reverse-charge goods received by a Hungarian taxable person
- The importation of goods into Hungary, regardless of the status of the importer

Special rules apply to intra-Community transactions involving new means of transport and distance sales (see the chapter on the EU, page 208).

## C. Who is liable

A taxable person is any business or individual that makes taxable supplies of goods or services in the course of a business in its own name.

Every entity or individual that undertakes a business activity in Hungary must register for VAT before beginning that activity. Retroactive VAT registration may be possible. However, it may trigger potentially significant penalties.

**Exemption from registration for small businesses.** If a taxable person's turnover did not exceed HUF 5 million in the preceding VAT year, it may request VAT exemption status. The request for exemption must be filed before the end of the VAT year preceding the year in which the exemption is to take effect. A new business may request exemption from registration if its anticipated turnover is not expected to exceed HUF 5 million a year. The request for exemption must be filed at the time of registration.

If exempt status is granted, the business must still register for VAT, but it may not charge VAT on its supplies and it may not recover input VAT on its expenses and purchases. In addition, the business is generally not required to file any VAT returns.

**Group registration.** VAT group registration is available for all industries. Companies that qualify as related parties and that have an establishment for economic purposes in Hungary from a VAT point of view may opt for VAT grouping. The group regime applies to all transactions performed by all group members.

**Nonestablished businesses.** A "nonestablished business" is a business that has no fixed establishment in Hungary. A nonestablished business that makes supplies of goods or services in Hungary must register for VAT if it is liable to account for Hungarian VAT on the supplies or if it makes intra-Community supplies or acquisitions of goods.

The reverse charge applies generally to installation supplies made by nonestablished businesses to taxable persons that file periodic VAT returns. Under this measure, the taxable person that receives the supply must account for the Hungarian VAT due. If the reverse charge applies, the nonestablished business is not required to register for Hungarian VAT.

Consequently, nonestablished businesses must register for Hungarian VAT if they make any of the following supplies:

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

**Reverse charge for domestic transactions.** The concept of a reverse charge also applies to the following transactions between Hungarian taxpayers:

- Transfer of immovable property on the basis of a construction contract
- Certain services relating to immovable property
- The supply of certain scrap materials
- The supply of real property if taxation is opted for
- The supply of goods provided as security in execution of that security
- Trading in emission rights of greenhouse gases
- Goods and services provided by taxpayers under liquidation or insolvency proceedings, if the value exceeds HUF 100,000

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

In general, businesses that are established outside the EU must appoint a resident tax representative to register for Hungarian VAT. The tax representative is jointly liable for VAT debts with the business represented by it.

All nonestablished businesses must register with the office for foreign taxpayers. The following is the office address:

APEH Kiemelt Adózók Igazgatósága  
 Dob utca 75-81  
 1077 Budapest  
 Hungary

**Late-registration penalties.** If a taxable person fails to register for VAT, a default penalty of HUF 500,000 applies. In addition, the VAT authorities notify the taxable person of its obligation to register. The fine is doubled if the taxable person fails to register within the specified deadline.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include, but are not limited to, exports of goods outside the EU and related services (for example, related to transport) and intra-Community supplies of goods.

In Hungary, the following are the VAT rates:

- Standard rate: 27%
- Reduced rates: 5% and 18%

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Financial services  
 Insurance  
 Public postal services  
 Approved education  
 Lease of property  
 Sales of securities  
 Sale of lease of land  
 Human medical care  
 Folk and handcrafted goods

### **Examples of goods and services taxable at 5%**

Human medicines and certain medical products  
 Books

**Examples of goods and services taxable at 18%**

Basic foodstuffs

Hotel services

**E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The time of supply is deemed to be when the supply is made or when an invoice is issued.

**Deposits and prepayments.** A prepayment or deposit creates a time of supply when the payment is received. The amount is considered to be inclusive of VAT, unless the reverse charge applies between domestic taxpayers. In such case, the amount is considered to be exclusive of VAT.

**Installment payments and periodic settlements for sales of goods and services.** Parties may agree that a supply of goods and services may be invoiced periodically or paid for in installments. In these circumstances, the tax point is the due date for the given payments.

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the date of issuance of the invoice or the 15th day of the month following the month in which the supply takes place. For services, it is the date on which the supply is made.

**Imported goods.** The time of supply for imported goods is either the date of acceptance of the customs declaration or the date on which the goods leave a duty suspension regime.

**F. Recovery of VAT by taxable persons**

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

Input tax includes VAT charged on goods and services supplied in Hungary, VAT paid on intra-Community acquisitions and imports of goods and VAT self-assessed for reverse-charge services received from outside Hungary and for certain reverse-charge domestic transactions.

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

Under the general rule, input VAT is deductible from output VAT charged in the same VAT period. If the amount of input VAT exceeds the amount of output VAT in the period, the excess can be carried forward to the next filing period or refunded.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use). In addition, input tax may not be recovered for some items of business expenditure. The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if it relates to a taxable business use (these lists are not exhaustive).



**Examples of items for which input tax is nondeductible**

Nonbusiness expenditure  
 Purchase or lease of a car (private use)  
 Fuel for cars  
 Taxi services  
 Car maintenance costs  
 30% of telecommunication services

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

Car maintenance costs  
 Transport  
 Purchase, lease or hire of cars, vans and trucks  
 Books related to business activities  
 Conferences  
 Advertising  
 Accommodation  
 Attending exhibitions

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. If a Hungarian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as “partial exemption.”

The amount of input tax that may be deducted is calculated in the following two stages:

- The first stage is the direct allocation of VAT to exempt and taxable supplies. Input tax directly allocable to exempt supplies is not deductible, while input tax directly allocable to taxable supplies is deductible. Exempt with credit supplies are treated as taxable supplies for these purposes.
- The second stage is the proration of the remaining input tax that relates to both taxable and exempt supplies based on the percentage of taxable supplies to total supplies made (called the deduction ratio). This treatment may apply, for example, to input tax on business overhead. The deduction ratio is calculated up to two decimal places. The amount of VAT recoverable must be rounded up to units of HUF 1,000.

When calculating the proration, a taxable person may initially use the deduction ratio amounts for either the current tax year or for the preceding tax year. However, if the preceding year’s amounts are used, the calculation must be adjusted at the end of the VAT year, using the relevant information for the current year.

**Capital goods.** Capital goods are tangible items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption deduction ratio in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person’s partial exemption deduction ratio changes during the year under review and if the difference with respect to a particular capital asset exceeds HUF 10,000.

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

- Land and buildings: adjusted for a period of 20 years
- Tangible capital assets: adjusted for a period of five years

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax (1/20 for land and buildings and 1/5 for other tangible capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

If a Hungarian taxable person sells an asset on which no input tax was deducted, a proportion of the input tax becomes deductible. The qualifying period for this treatment is the same as the capital goods adjustment period, which is 60 months (5 years) for tangible assets and 240 months (20 years) for land and buildings.

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may request a refund of the credit if this excess exceeds the following amounts:

- HUF 50,000 in the case of an annual filing
- HUF 250,000 in the case of a quarterly filing
- HUF 1 million in the case of a monthly filing

If a taxable person is not allowed to request a repayment, the excess input tax may be carried forward to the following period to offset output VAT payable.

If a repayment is claimed, the VAT authorities must pay it within 45 days after the due date of the return, or within 30 days if the amount requested is less than HUF 500,000. If the repayment is not made within these time limits, the VAT authorities must also pay interest, calculated from the due date of the repayment.

### **G. Recovery of VAT by nonestablished businesses**

The Hungarian VAT authorities refund VAT incurred by businesses that are not established in Hungary nor registered for VAT there. Nonestablished businesses may claim Hungarian VAT to the same extent as Hungarian taxable persons.

Hungary applies the reciprocity principle to refunds. Under this principle, refunds are granted to businesses established in countries that refund VAT to Hungarian businesses. Refunds are currently allowed to businesses established in another EU member state, Liechtenstein and Switzerland.

**Refund application.** The deadline for submitting applications is 30 September following the claim year. This deadline is strictly enforced. The claimant must submit its application to either the tax office of its country of establishment in the EU or the Hungarian tax office for Swiss and Liechtenstein businesses.

Non-EU claimants must file a form issued by the Hungarian VAT authorities together with the relevant documents, including the original invoices. The claimant must also submit a certificate issued by the VAT authorities in the country in which it is

established, certifying its status as a taxable person. The applicant must prove that it paid the gross amount of the invoices. The Hungarian suppliers may also provide a declaration that the invoices were fully paid. The form may be completed in Hungarian or English. However, all correspondence with the tax authorities must be in Hungarian. A nonestablished claimant may appoint a lawyer, legal advisor or tax consultant resident in Hungary to represent it in any dealings with the VAT authorities. If a representative is used, the original power of attorney appointing the representative must accompany the repayment claim form. All documents relating to the VAT reclaim must be sent to the Hungarian VAT authorities at the following address:

APEH Kiemelt Adózók Igazgatósága  
1077 Budapest  
Dob utca 75-81  
Hungary

In accordance with EU Directive 2008/9/EC, EU claimants must file their refund applications electronically with their home country tax office, together with, in general, soft copies of invoices with a value over €1,000.

The claim period is a minimum of three months if the VAT recoverable in that period exceeds €400. The maximum claim period is one calendar year. The minimum claim allowed is €50.

The refund is paid in Hungarian forints (HUF) into the bank account notified by the claimant. This account may be either a bank account in Hungary or in the country where the claimant is registered. If the claimant provides the tax authority with a foreign bank account number, the costs related to the bank remittance and exchange are the claimant's responsibility and the refunded amount is reduced accordingly.

**Repayment interest.** Hungarian law provides that repayments must be made within 30 days (or within 45 days if the amount reclaimed exceeds HUF 500,000) after the date on which the claim is approved. If the VAT authorities do not repay the claim within this time limit, the claimant is entitled to interest.

## H. Invoicing

**VAT invoices and credit notes.** A Hungarian taxable person must generally provide VAT invoices for all taxable supplies made, including exports and intra-Community supplies. Invoices must be issued no later than 15 days following the time of supply (see Section E).

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

**Proof of exports and intra-Community supplies.** VAT is not charged on exports and intra-Community supplies. To qualify as VAT-exempt, exports and intra-Community supplies must be accompanied by evidence that the goods have left Hungary (in the case of exports, within three months). Suitable documentary evidence includes the following:

- For an export, a copy of the uniform customs declaration submitted to the customs authority
- For an intra-Community supply, a shipping document or any other credible evidence

**Foreign-currency invoices.** If an invoice is issued in a foreign currency, the taxable value must be converted into Hungarian forints using the foreign exchange offer rate on the date of supply of any domestic credit institution that has a foreign-exchange permit. The taxpayer may use the official exchange rate quoted by the National Bank of Hungary if this decision is reported in advance to the Hungarian tax authorities. After this option is exercised by a taxpayer, it cannot be changed until the end of the following calendar year. If the domestic credit institution does not quote the foreign currency used, the Hungarian National Bank rate must first be used for conversion into euro. The conversion is based on the euro exchange rate for the quarter preceding the time of supply of the transaction.

## I. VAT returns and payment

**VAT returns.** In general, Hungarian taxable persons must file quarterly tax returns. However, taxable persons whose net VAT payable in the tax year, or in the second year before the current year, exceeds HUF 1 million must file monthly.

Taxable persons whose VAT payable for the second year preceding the current year does not exceed HUF 250,000 must file VAT returns annually if they were not given an EU VAT identification number. However, a taxable person in this position may opt to file quarterly returns.

Returns for VAT groups must be filed monthly.

Monthly and quarterly VAT returns must be filed by the 20th day of the month following the tax period. The annual return is due by 15 February in the year following the tax year. Payment in full is required on the same date.

VAT return liabilities must be paid in Hungarian forints.

**Penalties.** A maximum penalty of HUF 500,000 and late payment interest apply to the late submission of a VAT return. If the return is filed on time but the VAT is paid late, late payment interest is charged. The interest rate used is a rate double the prevailing prime rate multiplied by 1/365 for each day of lateness.

If a return has been filed but the VAT is unpaid, the penalty is 50% of the tax arrears, plus late payment interest.

Late payment interest is not imposed if the taxable person is able to justify the default. Based on the circumstances of the individual case, the default penalty may be reduced or cancelled by the tax authorities.

## J. EU declarations

**INTRASTAT.** A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT.

**Recapitulative Statements.** A taxable person must also file Recapitulative Statements (EU Sales Lists and EU Acquisition Lists) for both goods and services.

Penalties may be imposed for late, missing or inaccurate INTRASTAT returns and Recapitulative Statements.

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## A. At a glance

Names of the taxes

Value-added tax (VAT)  
Central sales tax (CST)  
Service Tax

Date introduced  
VAT

Implemented in most of the states in India, effective from 1 April 2005 (replaced the sales tax regime)

CST	1956
Service Tax	1994 (scope gradually widened)
Administered by	
VAT	Levied and administered by the states
CST	Levied by the central government, but collected and administered by the states
Service Tax	Levied and administered by the central government
VAT rates	
Standard	Ranges from 12.5% to 15% among the states
Other	Nil/1%/4% or 5%/20%, as well as 0.25% to 1% on entire turnover for small sellers
CST rates	
Goods purchased for resale, use in manufacturing or other specified usage	2%
Other cases	VAT rate applicable in the respective state
Service Tax rate	10.30%
VAT and CST return periods	Half-yearly/quarterly/monthly (depending on the state's legislation)
Service Tax return periods	Half-yearly
Thresholds	
VAT registration	INR 500,000 (in general)
CST registration	None
Service Tax registration	INR 900,000 (but with no liability for payment of tax if total annual turnover is less than INR 1 million)

## B. Scope of the tax

**VAT.** VAT applies to the following transactions:

- The sale of goods within the state. The transfer of a right to use goods (a lease) is included in the definition of "sale" for this purpose.
- The transfer of goods during the execution of works contracts involving the supply of materials and services.
- The purchase of goods from nonregistered vendors in specified situations.
- The delivery of goods with respect to hire-purchase or any system of payment by installments.
- The supply of food or any other article for human consumption or any drink as part of a service or in any other manner.

**CST.** CST applies to the interstate sale of goods, that is, to the movement of goods from one state to another, pursuant to a sale.

**Service Tax.** Service Tax applies to specified "taxable services." Services not included in this list are not taxable. Currently, over 100 categories of services are included in the list of taxable services.

Examples of taxable services include telecommunications, advertising agency services, management or business consultant services, and repair and maintenance services. Examples of nontaxable services include medical services (other than cosmetic and plastic surgery services and health check-ups) and educational services.

**Other indirect taxes.** In addition to VAT, CST and the Service Tax, an Excise Duty (Cenvat) is levied in the form of a value-added tax on the manufacture of goods in India. The general rate of Excise Duty is 10.30%.

Like many countries worldwide, India levies customs duty on the importation of goods into India. India's Customs Duty has the following components:

- Basic Customs Duty (with a top rate of 10%)
- Additional Customs Duty (levied at a rate equal to the Excise Duty applicable to the manufacture of the same goods in India)
- Additional Duty of Customs (levied at a rate of 4% instead of the domestic sales tax and other local taxes)
- Education Cess

The Excise Duty and the Additional Customs Duty on inputs are creditable against the Service Tax and Excise Duty chargeable on outputs. Additional Duty of Customs is creditable only against the Excise Duty. Refund of the Additional Duty of Customs is available if the goods are subsequently sold by the importer in India after payment of appropriate VAT or CST.

The Education Cess is applied at a rate of 3%. It is levied on the amount of the notified duties and taxes, such as Customs Duty, Excise Duty and Service Tax.

**Proposed Goods and Services Tax.** The central government of India has proposed the introduction of a new Goods and Services Tax (GST). The GST is intended to subsume most of the central government and state level indirect taxes currently in force. The new tax would be a "dual" GST, consisting of Central GST (CGST) and State GST (SGST). The new tax would have a far-reaching impact on all sectors of the economy. Originally, the tax was to be introduced on 1 April 2010, but it was later deferred to 1 April 2011. However, because of a political disagreement regarding the necessary amendments to the Constitution, its introduction has been further delayed and a definitive effective date has not yet been announced.

### C. Who is liable

**VAT.** All sellers with a turnover in excess of the registration threshold are liable to register for VAT. In most states, the threshold is INR 500,000 of sales.

The registration threshold is nil or very low for sellers who import goods into a state.

**CST.** Every person that sells goods to a buyer outside the state is required to be registered and pay CST. No turnover threshold applies.

**Service Tax.** Every person that provides taxable services in excess of the turnover threshold is required to pay Service Tax. The Service Tax turnover threshold is INR 1 million.

**Excise Duty.** In general, every person that undertakes a manufacturing activity must be registered with Central Excise authority. Exemption from registration criteria is granted to a few specified persons, such as small-scale units having a turnover of INR 15 million or less.

**Voluntary registration.** An entity may register voluntarily for CST, Excise duty and Service Tax. Voluntary registration is also available under most states' VAT laws.

### Branch registration

*VAT/CST.* Each of the branches and offices of the company must be included in the VAT/CST registration for the state.

*Service Tax.* Each premises of a service provider must be registered separately for the Service Tax. However, if the service provider maintains a centralized billing or accounting system, a single Service Tax registration may be obtained for all of its premises.

A head or centralized office of a manufacturer or service provider that receives invoices for the purchase of input services but has no or inadequate output tax liability can obtain a registration to distribute the surplus credit to other offices that are required to discharge the output tax liability.

**Importation.** No VAT or CST applies to goods at the point of importation into a state. However, these taxes apply to any subsequent sale of the goods within the state after their importation.

**Reverse charge.** A service recipient is generally liable to pay the Service Tax with respect to any taxable service received from a nonresident service provider. Persons that receive services are not liable to pay the Service Tax on imported services, unless the service is acquired for use in business or commerce.

## D. Rates

VAT is levied generally at the rates of 0%, 1%, 4% or 5% (depending on the state), 12.5% to 15% (depending on the state) and 20%. Many states have recently changed the lower rate of tax to 5% (previously 4%) and the standard rate to rates ranging from 13% to 15% (previously 12.5%). For example, in the State of Karnataka, the rates of 4% and 12.5% have been increased to 5% and 14%, respectively, and in the State of Tamil Nadu, the rates have been increased from 4% to 5% and from 12.5% to 14.5%. Some goods are exempt from tax. The following tables provide examples of supplies that are exempt or are taxable at the VAT rates (these lists are not exhaustive).

### Examples of exempt goods and goods taxable at the 0% rate

Fruits and vegetables

Agricultural implements

Books

### Examples of goods taxable at the 1% rate

Gold

Silver

Other precious metals and articles made of such metals



**Examples of goods taxable at the 5% rate**

Medicines  
 Intangible goods  
 Industrial inputs  
 Information technology products  
 Telephones

**Examples of goods taxable at the 20% rate or a higher rate**

Alcohol and motor fuels

**Examples of goods taxable at the standard (12.5% to 15%) rate**

All other goods

**Small businesses.** Small businesses with sales turnover between INR 500,000 and INR 5 million may opt for taxation under the “composition scheme.” Under this scheme, sellers pay tax at a flat rate on all of their sales, with no right of input tax deduction for the tax paid on their purchases (see Section F). The flat rate varies between 0.25% and 1%, depending on the state.

**CST.** The rate of CST varies depending on the status of the buyer and on the state where the goods are sold.

If the buyer of the goods is a manufacturer or reseller or if it uses the goods for a purpose prescribed by the CST law, CST applies at the concessional rate of 2%.

In all other cases, CST applies at the local VAT rate in the vendor’s state.

**Service Tax.** The Service Tax applies at a rate of 10.30% on taxable services. It is paid on the gross amount charged by the service provider.

**E. Time of supply**

**VAT and CST.** VAT and CST are payable when the sale is complete (that is, when the transfer of title to the goods takes place or, for leases, when the right to use the goods is transferred).

**Service Tax.** The taxable event for the Service Tax is the performance of the service. However, the tax is payable on the issuance of the invoice or receipt of consideration (including any payments received in advance), whichever is earlier. The invoice or bill must be issued within 14 days after the date of completion of the service or the receipt of any payment, whichever is earlier. If the invoice is not issued within 14 days, payment of Service Tax is due on completion of service.

**Excise Duty.** The taxable event for levy of Excise Duty is the manufacture or production of goods. However, the tax is payable at the time of removal of goods from the factory or warehouse.

**Continuous supplies**

*VAT and CST.* VAT/CST is payable in each tax period in which the sale is made.

*Service Tax.* For purposes of the Service Tax, continuous services are services provided under a contract for a period exceeding three months, including certain specified services, such as telecommunication services and works contract services. In such

cases, besides the normal rule for determination of time of supply, the periodical payment milestones also need to be considered for determination of the time of supply.

**Imported goods.** VAT and CST do not apply to the importation of goods.

**Imported services.** Service Tax on taxable services provided from outside India and received in India must be paid by the service recipient in India under the reverse-charge mechanism. Tax is payable in accordance with the date of invoicing. However, the tax payment can be postponed to the date of actual payment towards services if such payment to the nonresident service provider is made within a period of six months.

For transactions with associated enterprises, Service Tax is payable on book entry.

## F. Availability of credit for registered persons

**VAT.** In most states, input tax credit is allowed for VAT paid with respect to goods acquired for resale or for use in the manufacturing of taxable goods. Credit is obtained by offsetting the tax paid against VAT charged on sales (output tax).

Exports from India are zero-rated. The exporter has a full right of input tax credit for tax paid on the purchase of the exported goods and on goods used to manufacture exported goods.

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

### Noncreditable goods

*VAT.* Most state VAT laws specify a list of goods on which input tax credit is not allowed. The following table provides examples of items for which input tax credits are denied or restricted (this list is not exhaustive).

#### Examples of noncreditable purchases

- Goods used for the manufacturing of exempt goods
- Goods distributed as gifts or free samples
- Construction materials
- Office equipment
- Fuel for motor vehicles

*CST.* No credit is allowed with respect to CST paid.

*Service Tax.* Service Tax paid on the procurement of services (input tax) is allowed against the Service Tax due (output tax). The Excise Duty, levied by the central government on the manufacture of goods and Additional Customs Duty, levied on the importation of goods, are also creditable if the goods are used as inputs to taxable services. Exports of taxable services are zero-rated. The service provider is allowed a refund of the Service Tax and Excise Duty paid on inputs related to exported services.

### Partial denial of input tax credit

*VAT.* Input tax credit is generally not permitted for purchases related to sales of exempt goods. If goods are used for both taxable and exempt sales, most states require the seller to maintain separate books of accounts to detail the allowable portion of its input tax. Alternatively, they allow proportionate input tax credit.

*Service Tax.* Credits are generally denied with respect to inputs and input services used to provide nontaxable or exempt services. Separate accounts must be maintained with respect to inputs and input services used to provide taxable and nontaxable or exempt services. If separate accounts are not maintained, a manufacturer or service provider must pay 5% of the value of exempted goods or exempted services after taking the entire input tax credit for eligible inputs or input services. Alternatively, the manufacturer or service provider may claim the credit attributable to taxable goods or services computed as per a prescribed formula.

**Capital goods.** Under the VAT laws of the states, “capital goods” are generally defined as goods used in manufacturing activities. These goods are generally subject to VAT at a rate of 5%. VAT credit with respect to capital goods is allowed. The credit may be claimed immediately on receipt of the goods or it is subject to amortization over a specified period ranging from one to three years, depending upon the respective state’s VAT laws.

The Excise Duty paid on procurement of capital goods is available as a credit to a manufacturer or service provider. Fifty percent of the credit is available in the year of receipt, and the remaining 50% is available in any subsequent year.

In general, the credits under the various laws mentioned above in Section F are subject to prescribed terms and conditions, including the availability of necessary documents for a claim of credit.

### **Refunds**

*VAT.* If the amount of input tax credit in a tax period exceeds the VAT payable, the excess may be used towards payment of CST and any other amount payable under the state’s VAT laws. Any remaining excess may be refunded after a specified period.

*Service Tax.* Refunds of any excess credits with respect to Service Tax are allowed only if the excess credits relate to exports. Refunds of Service Tax to units or developers of Special Economic Zones (SEZs) are allowed with respect to services provided to SEZs, subject to certain conditions.

*Excise Duty.* Refunds of Excise Duty are allowed with respect to goods exported from India. In all other cases, excess Excise Duty paid may be carried forward to subsequent periods.

### **G. Recovery of VAT and service tax by nonestablished businesses**

Refunds of VAT, CST and Service Tax are not granted to businesses that are not established in India. Only entities that are registered for VAT may claim set-offs or refunds of VAT paid in a state. Similarly, a credit for Service Tax is usually allowed only to an entity registered for Service Tax.

### **H. Invoicing**

#### **Tax invoices and adjustment notes**

*VAT.* A registered person must issue a tax invoice for all taxable sales made within a state. A small business that pays tax under the composition scheme (see Section D) is generally not allowed to issue tax invoices.

A tax invoice is generally necessary to support claims for input tax credits. Contents of the tax invoice are prescribed under the state VAT laws.

An adjustment note (or credit or debit note) may be issued to reduce or increase the amount of VAT payable on a supply (for example, an agreed adjustment is made to the price as a result of an error, or goods sold are returned). The state laws generally prescribe the contents of adjustment notes. Some states provide for a time limit (typically six months) for the reduction of VAT payable on account of return of goods sold.

*Service Tax.* An invoice or a bill must be issued with respect to taxable services within 14 days after the provision of taxable services. The invoice or bill must contain the details prescribed under the Service Tax law.

*Excise Duty.* A registered person must issue an invoice for removal of goods from a factory or warehouse. The invoice or bill must contain the details prescribed in the Excise Duty law.

### **Proof of exports**

*VAT and CST.* Exports of goods are zero-rated for VAT purposes (that is, taxable at 0% with a right to input tax deduction). In general, the state VAT laws do not specify the proof of export required to support a zero rating. A valid export invoice, shipping document and receipt of remittance are generally considered sufficient proof.

*Service Tax.* Specific export rules determine whether a service qualifies as an export. These rules are based on one or more of the following criteria:

- The location of the service recipient
- The place of performance of the services
- The location of the assets in relation to where the services are provided
- The currency in which payment is received

### **I. Returns and payment**

**VAT and CST.** VAT and CST returns must be filed monthly, quarterly or half-yearly.

Some states require an annual return to be filed in addition to the periodical returns.

Some states require a mandatory audit to be conducted by an independent auditor (for example, a Chartered Accountant). The audit report must be submitted to the tax authorities.

VAT must generally be paid for the same period as the related return by the date provided in the state VAT laws.

**Service Tax.** Service Tax returns must be filed half-yearly. The due dates are 25 April and 25 October each year. In general, the Service Tax must be paid by the 5th day of each quarter by individuals and partnerships, and by the 5th day of each month by all other service providers. However, for a quarter or month ending in March, the Service Tax must be paid by 31 March. For electronic payments of tax, the due date is the 6th day of each month (except for March).

**Interest**

*VAT and CST.* Interest is levied with respect to nonpayments or late payments of VAT and CST.

*Service Tax.* Nonpayments or late payments of Service Tax are subject to interest at a rate of 18% per year.

*Excise Duty.* Nonpayments or late payments of Excise Duty are subject to interest at a rate of 18% per year.

**Penalties**

*VAT and CST.* Penalties are imposed by the designated tax authorities for nonregistration, nonpayment or late payment of VAT and CST and for the failure to submit a return.

Penalties are also imposed for noncompliance with other provisions of the VAT laws. The penalty provisions vary among the states.

*Service Tax.* Nonpayments or late payments of Service Tax are generally subject to a penalty of the higher of INR 100 per day or 1% of tax per month, subject to a maximum of 50% of tax payable.

The contravention of any provision of the Service Tax law, for which no other penalty is provided, attracts a penalty of up to INR 10,000.

Offenses, such as the provision of services without the issuance of invoices and the submission of false information to the authorities, are punishable by imprisonment.

Serious offenses may attract a penalty equal to the unpaid tax.

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**A. At a glance**

Name of the tax

Value-added tax (VAT)

Local name

Pajak Pertambahan Nilai (PPN)

Date introduced

1 January 1984

Administered by

The Directorate General of Taxes  
(<http://www.pajak.go.id>)

VAT rates	
Standard	10%
Other	Zero-rated and exempt
VAT number format	11.111.111.1-111.111
VAT return periods	Monthly
Thresholds	
Registration for small entrepreneurs	IDR 600 million of supplies of goods or services
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- Deliveries of taxable goods and taxable services made in the Indonesia Customs Area in the course of a business by a taxable entrepreneur.
- Imports of taxable goods into Indonesia, regardless of the status of the importer.
- The use of taxable services and intangible goods provided by overseas entities inside the Indonesia Customs Area.
- Export of taxable goods (tangible or intangible) and/or taxable services by a taxable entrepreneur.
- Self-construction activities performed outside the course of business or work by an individual or company if the results are for the person's own use or for use by others.
- Deliveries of assets not originally acquired for sale. An exemption applies if the input VAT on acquisition cannot be credited because the purchase was not related to business or because it was a purchase of a luxury car.

## C. Who is liable

All businesses engaged in supplies subject to VAT are required to register for VAT as "taxable entrepreneurs," unless they qualify as "small entrepreneurs." This requirement also applies to any permanent establishment of a nonresident business located in Indonesia.

**Small entrepreneurs.** A business qualifies as a "small entrepreneur" if its gross annual turnover (from supplies of goods or services) does not exceed IDR 600 million.

**Nonresident businesses and tax representatives.** A legal requirement to appoint a fiscal representative in Indonesia is not imposed. However, a taxable entrepreneur may appoint a proxy to handle its VAT refunds or audits.

**Late-registration penalties.** If a taxable entrepreneur registers late, penalties may be imposed on the supplies of taxable goods and services made before the date of registration. Input VAT (see Section F) incurred during the period before registration may not be claimed as a deduction against output VAT due after the registration date.

## D. VAT rates

The term "taxable supplies" refers to supplies of goods and services that are liable to VAT, including at the zero rate. The two VAT rates are the standard rate of 10% and the zero rate (0%),

which applies to exported taxable goods (tangible or intangible) and taxable services (see below for details regarding the applicability of the zero rate to the export of taxable services).

Nontaxable goods include mining or drilling products extracted from source, basic commodities for public necessities (rice, corn, sago, soybean, iodized and non-iodized salt, fresh meat, eggs, milk, fruits and vegetables), food and beverages served in hotels, restaurants, food courts and such other places (dine-in or take-away, including catering), money, gold bars and valuable documents.

Nontaxable services include the following:

- Medical health services
- Social services (orphanages and funerals)
- Mail services with stamps (postal services)
- Financial services including fund raising and placement
- Financing services including *shariah*-based financing (financial lease, factoring, credit card and consumer financing)
- Underwriting and mortgage
- Insurance services
- Religious services
- Educational services
- Commercial art and entertainment services that are subject to regional entertainment tax
- Broadcasting services for nonadvertising (radio or television broadcasting performed by a government institution or private agency that does not constitute advertising and that is not financed by a sponsor for commercial purposes)
- Public transport on land or water
- Domestic air transport as an integrated part of international air services
- Manpower services
- Hotel services
- Public services provided by the government
- Parking space services
- Money order services
- Catering services

The term “exempt deliveries” refers to deliveries of certain taxable goods and taxable services that are exempt from VAT and that do not give rise to a right of input tax deduction or credit (see Section F).

VAT exemption also applies to deliveries or importation of goods that fall under the category of “strategic goods.” These goods include, but are not limited to, capital goods in the form of plant machinery and equipment, certain agricultural products, seeds for agriculture and electricity for houses (see the listing below).

The following tables list examples of exempt supplies of goods and services and zero-rated goods (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Official textbooks

Religious books

Vaccines

Certain ships, aircraft and trains

Some real estate transactions

Services supplied to local shipping companies

Services supplied by the national army

**Examples of exempt supplies of "strategic goods"**

Capital goods in the form of plant machinery and equipment, in either built-up or knock-down condition, not including spare parts

Livestock, poultry, and fish feed and raw materials for the manufacture of livestock, poultry, and fish feed

Agricultural produce (goods produced from business activities in the sectors of agriculture, plantations, and forestry, livestock farming, hunting or trapping, or breeding fisheries, whether from fishing or cultivation)

Seeds or sperm of agricultural, plantation, forestry, livestock, breeding, or fishery products

Clean water channeled through pipes by a potable water company

Electricity, except for residences with power in excess of 6,600 watts

**Examples of zero-rated supplies of goods**

Exports of taxable goods (tangible or intangible) and taxable services

However, the implementing regulation states that exports of services subject to zero-rated VAT, are limited to the following categories:

- Toll manufacturing services for overseas customers that meet certain requirements (in the toll manufacturing process, a contractor manufactures goods using raw materials provided by the party ordering the goods, and the manufactured goods are delivered to the ordering party or others appointed by the ordering party)
- Reparation and maintenance services relating to movable goods that are being used outside the Indonesia Customs Area
- Construction services, which include construction planning consultation services, construction execution work services and construction supervising consultation services, if these services are related to immovable goods located outside the Indonesia Customs Area

The Free Trade Zone (FTZ) regimes provide a VAT exemption for the delivery of goods or services within the FTZ, and the noncollection of VAT for the delivery of taxable goods or services to the FTZ. The areas that have been confirmed as FTZs are Batam Island, Sabang Island, and Bintan and Karimun Islands.

**Special VAT-free regimes.** Other VAT regimes technically eliminate the payment of VAT due. These include the following:

- The noncollection of VAT payable to companies in bonded zone areas and to manufacturers of goods for export
- The noncollection of VAT payable arising from goods or services supplied by principal contractors of projects financed by foreign aid loans or grants

In this context, noncollection refers to the tax facility under which the VAT due is not collected for certain taxable goods and services. Under such tax facility, the related input VAT can still be claimed as a tax credit.

**E. Time of supply**

In Indonesia, VAT becomes payable at the earlier of the date on which the taxable goods or services are supplied or the date of receipt of advance payments. Tax invoices must be issued when



the delivery of goods or services takes place, or on receipt of payment for a supply of goods or services, whichever is earlier.

**Imported goods.** The time of supply for imported goods is either the date of importation, or, for goods imported by companies determined to be bonded zone companies, the date on which the goods leave the bonded zone area.

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on taxable goods and taxable services supplied to it for business purposes to the extent that costs corresponding to the input tax are for sales that are subject to VAT. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. If the input VAT exceeds output VAT due, this excess tax can be claimed as a refund (see *Refunds*).

Input tax includes VAT charged on goods and services supplied in Indonesia, VAT paid on imports and self-paid VAT on the use of taxable services and intangible goods provided by overseas entities inside the Indonesia Customs Area (under the self-paid method, the party who uses the intangible goods or services may pay the 10% VAT directly to the state treasury on behalf of the overseas party).

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

In September 2010, the Indonesian Tax Authority released a circular stipulating that the export of “strategic goods” (including animal feed, raw materials for production of animal feed, agricultural products and seeds), is subject to 0% VAT. The circular confirms that a taxpayer exporting “strategic goods” may claim an input VAT credit relating to export sales. This can be claimed as a tax refund if it results in a VAT credit (that is, the balance of the input VAT credit is greater than the amount of output VAT).

**Noncreditable input tax.** In general, a credit may not be claimed for input tax on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur).

In addition, input tax on purchases of goods and services that were made before the taxable entrepreneur started to deliver taxable goods or services also cannot be credited, except for input VAT on capital goods that can still be claimed as a tax credit.

Input VAT on capital goods purchased or imported that were credited and refunded during the preproduction stage by a VAT-able firm must be repaid if the enterprise is unable to produce VAT-able goods within three years.

The following tables provide examples of items of expenditure for which input tax is not creditable and examples of items for which input tax is creditable (these lists are not exhaustive).

### Examples of items for which input tax is noncreditable

Purchases used for nonbusiness purposes

Business gifts

Purchase, lease or hire of benefits in kind (such as employee accommodation or personal cars)

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

Advertising

Attending conferences and seminars

Purchase, lease or hire of cars, vans or trucks

Maintenance and fuel for vans and trucks

Business travel expenses

**Refunds.** If the amount of input tax credits in a period exceeds the VAT payable in the same period, the excess amount is refundable. In general, refund claims must be made at the end of the year. However, certain taxpayers may claim refunds on a monthly basis. The Indonesian tax authorities conduct audits to ensure the validity of VAT refund claims. The tax audit must be concluded within one year after the date of the request for a refund.

If the tax audit confirms that the VAT refund claim is valid, the taxable person may recover the overpaid tax within one month after the date of the tax audit assessment letter.

The Indonesian tax authorities must pay an interest penalty for delays in making valid repayments, calculated at the rate of 2% per month of the tax refundable.

An accelerated refund process through a tax examination is provided for certain taxable entrepreneurs who meet the criteria for a compliant taxpayer or a low-risk taxpayer.

### **G. Recovery of VAT by nonresident businesses**

Indonesia does not refund VAT incurred by businesses that are neither established nor registered for VAT in Indonesia. A permanent establishment of a nonresident business in Indonesia may request a VAT refund in the same manner as other Indonesian taxable persons.

### **H. Invoicing**

**VAT invoices and credit notes.** A standard VAT invoice for all taxable supplies made must be provided by Indonesian taxable entrepreneurs except those who are engaged in retail business or are the end-users of the goods.

A complete and correct standard VAT invoice is generally necessary to support a claim for input tax credit.

A purchaser who returns goods to a supplier or cancels services may issue a credit note or cancellation note. A credit note or cancellation note must refer to the original VAT invoice and clearly indicate details of the returned goods or cancelled services. A credit note or cancellation note may be used to adjust the amount of VAT due for a taxable supply of goods or services.

**Proof of exports.** Exports of goods are subject to VAT at the rate of 0%. However, export supplies must be supported with evidence that the goods were exported outside Indonesia. Valid evidence of export includes “Notification of Export Goods” (PEB) documents issued by the customs office for goods that have been approved for loading.

**Foreign-currency invoices.** For supplies denominated in a foreign currency, the amounts of output tax shown must be stated in

Indonesian rupiah (IDR). The official exchange rate issued by the Minister of Finance on the date on which the VAT invoice is issued must be used to convert the currency.

## I. VAT returns and payment

Effective from 1 April 2010, the due date for the submission of monthly VAT returns is the last day of the following tax period. The VAT due must be settled before the submission of the monthly VAT returns.

VAT liabilities must be paid in Indonesian rupiah.

A new form of VAT return (SPT Masa PPN 1111) was introduced for VAT reporting periods beginning with the January 2011 period.

**Penalties.** A penalty is charged at the rate of 2% per month on late payments of VAT (for a maximum 24 months). An additional penalty of IDR 500,000 is assessed for each VAT return submitted late.

A penalty, charged at a rate of 2% of the sales value, is imposed for the failure to issue a VAT invoice or for the issuance of a VAT invoice that is considered defective (including a VAT invoice that is issued late).

For severe evasion or fraud, criminal penalties apply. Two criminal offenses that may be charged with respect to VAT are described below.

*Criminal offenses related to general tax administration excluding the issue related to a tax invoice.* Criminal offenses related to general tax administration other than the issue related to the tax invoice that cause losses to the revenue of the state are punishable by imprisonment from six months to six years and a fine of twice the amount of the unpaid or underpaid taxes (minimum fine) or of four times the amount of unpaid or underpaid taxes (maximum fine). This criminal sanction may be doubled if the taxpayer commits another criminal tax offense before one year elapses from the date of completion of the taxpayer's jail term.

*Criminal offenses related to the issuance of a tax invoice.* Criminal offenses related to the issuance of a tax invoice are punishable by imprisonment from two years to six years and a fine ranging from two times to six times the amount of tax declared in the tax invoice.

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## Ireland, Republic of

(Country code 353)

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Dublin

GMT

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 November 1972
European Union (EU) member state	Yes
Administered by	The Revenue Commissioners ( <a href="http://www.revenue.ie">http://www.revenue.ie</a> )
VAT rates	
Standard	23% (effective from 1 January 2012)
Reduced	4.8%, 9% and 13.5%
Other	Zero-rated and exempt
VAT number format	IE 1234567 A
VAT return periods	Bimonthly (standard), triannually, biannually and annually, and Annual Return of Trading Details for all businesses
Thresholds	
Registration	
For persons supplying services	€37,500
For persons supplying goods	€75,000
Nonestablished businesses	None
Distance selling	€35,000
Intra-Community acquisitions	€41,000
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Ireland by a taxable person
- The intra-Community acquisition of goods from another EU member state by an accountable person
- Reverse-charge services received by a taxable person in Ireland
- The importation of goods from outside the EU, regardless of the status of the importer

**C. Who is liable**

The term “accountable person” refers to any individual or entity that is or should be registered for VAT. A liability to register arises from making “taxable supplies,” which include the supply of goods or services, intra-Community acquisitions and distance sales made in the course of a business in Ireland. An entity that exclusively makes exempt supplies is generally not treated as an accountable person.

The VAT registration thresholds in Ireland depend on the type of supplies made. For an Irish resident business or a fixed establishment of a foreign business, the following are the thresholds:

- €37,500 for persons supplying services
- €75,000 for persons supplying goods
- €35,000 for persons making mail order or distance sales into Ireland
- €41,000 for persons making intra-Community acquisitions

A business is required to register for VAT as soon as its turnover is likely to exceed the relevant threshold.

**Option for registration.** A business established in Ireland that generates turnover not exceeding the registration threshold is not required to register for VAT. However, a business that makes taxable supplies may opt to register in these circumstances.

Similarly, a new business may request registration in advance of making taxable supplies as soon as it is clear that it will become an accountable person.

**Group registration.** The Revenue Commissioners may grant group registration status to companies established in Ireland that are closely bound by “financial, economic and organizational links.”

A VAT group is treated as a single taxable person. VAT is not charged on supplies between group members, with the exception of certain supplies of real estate. Group members are jointly and severally liable for all VAT liabilities.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Ireland. No VAT registration threshold applies to supplies made in Ireland by a nonestablished business. VAT registration is required if a nonestablished business makes any of the following supplies:

- Goods located in Ireland at the time of supply
- Supplies of certain services deemed for VAT purposes to have taken place in Ireland (that is, services connected with immovable property)
- Intra-Community acquisitions in excess of the annual threshold or acquisitions of services from non-Irish suppliers
- Distance sales in excess of the annual threshold (see the chapter on the EU, page 208)

Registration is not required if all of the supplies made by the nonestablished business are subject to the reverse charge (self-assessment for tax by the recipient of the supply). The reverse charge does not apply to supplies of goods or services made to private persons.

A nonestablished business may apply to register for VAT in Ireland at the following address:

Office of the Revenue Commissioners  
City Centre District  
14/15 Upper O’Connell Street  
Dublin 1  
Ireland

The Irish VAT authorities may require a nonestablished business to provide security in order to register for VAT.

**Tax representatives.** A nonestablished business is not required to appoint a tax representative in order to register for VAT in Ireland.

**Cancellation of registration.** An accountable person that ceases to be eligible for VAT registration must cancel its registration.

An accountable person may also request cancellation of its registration if the level of its taxable turnover falls below the annual registration threshold, or if the accountable person previously opted for registration and no longer wishes to be registered.

**Late-registration penalties.** A penalty of €4,000 can be assessed for a failure to register for VAT.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including supplies made at the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F). However, an exception applies to certain exempt services supplied outside the EU. In Ireland, the following VAT rates apply:

- Standard rate of 23%
- Reduced rates of 4.8%, 9% and 13.5%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate or zero rate of VAT (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

Postal services

Finance

Insurance

Leasing of immovable property (unless option to tax exercised by landlord)

Medical services

### Examples of goods and services taxable at 0%

Books

Most foodstuffs (excluding confectionery)

Oral medicine

Exports

Children’s clothing and footwear

Goods and services supplied to frequent exporters under the “VAT 13A Scheme” (see Section F)

### Examples of goods and services taxable at 4.8%

Livestock

Greyhounds

### Examples of goods and services taxable at 9%

Newspapers and magazines

Holiday accommodation

Restaurant and catering services

### Examples of goods and services taxable at 13.5%

Electricity  
 Repair, cleaning and maintenance services  
 Developed immovable property  
 Building services

### E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The following is a general summary of the rules for determining when VAT is due:

- For supplies made to nontaxable persons, the due date is the date on which the supply is completed.
- For supplies made to taxable persons, the due date is the date on which the invoice is issued or the date on which the invoice should have been issued, whichever is earlier.

**Prepayments.** A prepayment is deemed to be a taxable supply, up to the value of the prepayment. The invoice for a prepayment must be issued within 15 days after the end of the month in which the prepayment is received.

A supplier that accounts for VAT on the invoice basis must account for VAT on a prepayment from a VAT-registered customer when the invoice is issued or when it should have been issued (that is, within 15 days after the end of the month in which the prepayment is received), whichever is earlier.

A supplier that accounts for VAT on the cash receipts basis must account for VAT on a prepayment from a VAT-registered customer when the payment is received.

The due date for a prepayment received from a nontaxable person is when the payment is received.

**Intra-Community acquisitions of goods.** The due date for intra-Community acquisitions of goods is the 15th day of the month following the month in which the goods arrive or the month in which the invoice is received, whichever is earlier.

**Imported goods.** The due date for imported goods is the date of importation or the date on which the goods leave a duty suspension regime.

**Cash accounting.** Some accountable persons are authorized to account for VAT on the basis of payments received rather than on the basis of invoices issued. This system is called “cash accounting.” For accountable persons using cash accounting, the liability to account for VAT arises on the date when payment is received for the supply. However, this does not change the basic tax point for the supply itself. The VAT rate applicable to a supply of goods or services is the rate in force on the date of the supply, not the rate in force on the date when payment is received.

### F. Recovery of VAT by accountable persons

An accountable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. An accountable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Ireland, VAT paid on imports of goods and VAT that is self-assessed on the intra-Community acquisition of goods and reverse-charge services.

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

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not made for business purposes, such as goods acquired for private use. If expenditure relates to business and private use, the input tax must be apportioned, and the amount related to business activities may be deducted.

In addition, input tax may not be deducted for some items of business expenditure, including the following items:

- The provision of food, drink and accommodation except for accommodation incurred in connection with attendance at a qualifying conference. A qualifying conference is a conference undertaken in the course or furtherance of business, organized to cater to 50 or more delegates. VAT may be claimed for a maximum period beginning with the night before the conference and ending on the date when the conference ends.
- Other personal services for taxable persons or their agents or employees.
- Entertainment expenses incurred by the taxable persons or their agents or employees.
- The purchase, hire or importation of passenger motor vehicles. However, 20% of VAT is recoverable on the purchase, hire, or importation of certain cars that have a low level of carbon dioxide emissions and that are used primarily for business purposes.
- The purchase of petrol (gasoline). However, diesel is deductible.

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Hotel accommodation

Food and drink

Lease, purchase and hire of most passenger cars

Petrol

Business entertainment

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

Car maintenance costs

Attendance at qualifying conferences and seminars

Lease, purchase, hire and maintenance of vans and trucks

Diesel for business use

Business use of mobile telephones

Parking

Gas and electricity

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. However, input tax related to making certain exempt supplies to non-EU customers (qualifying



activities) is deductible. If an accountable person makes both exempt supplies and taxable supplies, it may not recover all the input tax incurred on goods or services acquired for both purposes. This situation is referred to as “partial exemption.”

Input tax that directly relates to making exempt supplies is not recoverable. Input tax that directly relates to making taxable supplies is recoverable in full. For these purposes, the term “taxable supplies” includes zero-rated supplies and qualifying activities. Input tax that relates to taxable supplies and to exempt supplies is considered to have a dual use, and must be apportioned between taxable supplies and exempt supplies. The percentage of dual-use input tax that is attributable to making taxable supplies is recoverable. The recoverable percentage is rounded up to the nearest whole number. For example, a recovery percentage of 79.2% would be rounded up to 80%.

An Irish accountable person may use any calculation method to determine the recoverable percentage of dual-use input tax if the chosen method satisfies the following conditions:

- It results in a proportion of tax deductible that correctly reflects the extent to which dual-use inputs are used for the purposes of the person’s deductible supplies or activities.
- It has due regard to the range of the accountable person’s total supplies and activities.

Examples of possible apportionment methods include calculations based on the following:

- The ratio of turnover from taxable and qualifying activities to turnover from exempt activities
- The ratio of taxable transactions to exempt transactions
- The number of people involved in various activities

The Revenue Commissioners may require that a partially exempt accountable person uses a different calculation method if, in their view, the method adopted does not adequately reflect how input tax was used in the business or the activities undertaken.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the accountable person’s partial exemption recovery position in the VAT year of acquisition. In Ireland, no further adjustment is made to the amount of input tax recovered on the acquisition of capital goods with the exception of immovable goods, even if the ratio of taxable to exempt supplies changes in subsequent years.

**Refunds.** If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the accountable person has an input tax credit. An accountable person may claim a refund of the credit by submitting the VAT return for the period. If an accountable person normally receives refunds of VAT, it may request permission to submit monthly returns to improve cash flow.

**Special treatment for frequent exporters.** A business that exports goods to persons outside the EU or to taxable persons in other EU member states does not charge VAT on these transactions. However, it pays VAT on the goods and services it purchases locally or

acquires from other EU member states and on imports. Consequently, a business that predominantly trades with other countries would generally be in a net VAT repayment position for each period. This may have a negative impact on its cash flow position.

To help ease cash flow for businesses involved in international trade, exporters benefit from a special treatment for purchases. This provision is commonly known as the “VAT 13A Scheme.” For these purposes, a qualifying exporter is an accountable person that derives at least 75% of its turnover from exports of goods and from intra-Community supplies of goods to persons registered for VAT in other EU member states. Qualifying exporters may apply for certification of their entitlement to relief. Copies of the certification must be provided to suppliers which are required to supply most goods and services to qualifying exporters at the zero rate.

The VAT 13A zero rating applies to most domestic purchases of goods and services, imports and intra-Community acquisitions. The zero rating does not apply to the supply or hire of passenger cars, petrol (gasoline) for cars, food, drink, accommodation, non-business purchases or any other expenses for which the input tax is not deductible.

### **G. Recovery of VAT by nonestablished businesses**

Ireland refunds VAT incurred by businesses that are not established in Ireland nor registered for VAT there. A nonestablished business may claim Irish VAT to the same extent as a VAT-registered business.

For businesses established in the EU, applications for refunds are made electronically to the tax authority in their member states. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. Ireland does not exclude claims by businesses established in any country.

For the general VAT refund rules of the EU 13th Directive refund scheme, see the chapter on the EU, page 208.

**Refund application.** For non-EU claimants, the deadline for refund claims is 30 June of the year following the year in which the tax was incurred. For EU claimants, the deadline is 30 September of such year.

The claim must be for a period of not less than a calendar quarter, unless it is for the final part of a year, and the period may not be longer than a calendar year. For claims covering a period of between three months and one year, the minimum claim amount is €400. The repayment is made by a check issued in euros or by direct deposit into a bank account.

Applications for refunds of Irish VAT by non-EU claimants may be sent to the following address:

VAT (Unregistered) Repayments  
Office of the Revenue Commissioners  
3rd Floor  
River House  
Charlotte's Quay  
Limerick  
Ireland

**Repayment interest.** Claims are normally paid within three to six months after submission of the claim. For Irish VAT recovery claims from EU-based entities, in certain circumstances, interest is paid on repayments at a rate of 0.011% per day if the payment falls outside specific legislative time limits. For Irish VAT recovery claims by non-EU entities, interest is not paid by the Irish tax authorities on late repayments.

## H. VAT on property

New VAT on property rules took effect on 1 July 2008. The new rules introduce a simpler basis for applying VAT to property transactions. They regulate VAT on the leasing of property, introduce a capital goods scheme for properties and make the Irish VAT on property system similar to the systems in other EU member states.

## I. Invoicing

**VAT invoices and credit notes.** An Irish accountable person must issue a VAT invoice for taxable supplies made to taxable customers, exempt persons, government departments, local authorities, and bodies established by statute. An Irish accountable person must also issue an invoice with respect to intra-Community supplies to businesses in other EU member states and to sales to private individuals in other EU member states under distance selling arrangements. A VAT invoice must be issued within 15 days after the end of the month in which either the goods or services were supplied or an advance payment was received.

A VAT invoice is necessary to support a claim for input tax deduction or an Irish VAT refund application under the EU 13th Directive for non-EU businesses or under the VAT refund procedure applicable to EU businesses (see the chapter on the EU, page 208).

A VAT credit note must be used if the VAT payable on a supply is reduced because of a subsequent allowance or discount, unless the supplier and taxable customer agree that the VAT need not be adjusted. The credit note must be cross-referenced to the original VAT invoice and contain the same information.

**Proof of exports and intra-Community supplies.** VAT is chargeable at a zero rate on the supply of exported goods or on the intra-Community supply of goods (see the chapter on the EU, page 208). However, to qualify for a zero rate, exports and intra-Community supplies must be supported by evidence that confirms the goods have left Ireland. Acceptable proof includes the following documentation:

- For an export, a copy of the export document officially validated by customs showing the supplier as the exporter, together with shipping or air freight documents, and copies of commercial documentation (for example, orders, copy invoices, dispatch notes and delivery notes).
- For an intra-Community supply, a range of commercial documentation, including purchase orders, transport documentation, proof of payments received from abroad and contracts. The EU VAT registration number of the customer must also be quoted on the sales invoice.

**Foreign-currency invoices.** A VAT invoice may be issued in a foreign currency, but the actual VAT amount must be converted to euros and included on all VAT invoices issued. The invoice amounts must be converted using the latest selling rate recorded by the Irish Central Bank at the time of supply.

It is possible to agree on a different exchange rate method with the Irish VAT authorities. If an alternative method is used, the accountable person must use it for all foreign-currency transactions.

## **J. VAT returns and payment**

**VAT returns.** Irish VAT returns are generally submitted on a bimonthly basis. Effective from 1 October 2011, all VAT returns must be filed electronically in Ireland. Returns and full payment of the VAT due must be made by the 23rd day of the month following the return period.

Biannual or four monthly VAT returns may be submitted by traders whose total VAT payment for the year is less than €3,000 or between €3,000 and €14,000, respectively.

An accountable person that receives regular repayments of VAT may request to submit monthly returns.

**Annual Return of Trading Details.** All accountable persons must submit an Annual Return of Trading Details, which outlines sales and purchases for the year, broken down by VAT rate. It is a statistical return. Consequently, no VAT liability is attached to such return.

**Cash accounting.** Irish VAT is normally accounted for on an accrual basis; that is, on the basis of invoices issued and received. Some taxable persons are permitted to account for VAT on a cash basis; that is, on the basis of money received. Either of the following may opt for cash accounting:

- Accountable persons such as retailers and similar businesses that supply goods or services almost exclusively (at least 90% of turnover) to persons that are not registered for VAT
- Accountable persons whose annual turnover does not exceed €1 million

**Annual accounting.** Some accountable persons are permitted to submit VAT returns on an annual basis. This facility is granted at the discretion of the Irish VAT authorities. Accountable persons that submit annual returns must also complete the annual return of trading details.

An accountable person that is permitted to use the above facility may align its annual VAT return date with its commercial accounting year.

An accountable person that is permitted to submit annual returns must make monthly VAT payments by direct debit throughout the year. Interest may be chargeable if the sum of the monthly payments made is less than 80% of the total VAT payable for the year.

**Penalties.** The basic penalty for the late submission of a VAT return is €4,000 per return. However, if the Irish VAT authorities determine that an error was made as a result of the taxpayer acting carelessly or deliberately defaulting, penalties may be imposed

based on the amount of VAT underpaid or overclaimed. Such penalties can be between 3% and 100% of the VAT liability at issue.

Interest may also be levied on the amount of tax due at the rate of 0.0274% per day.

The Irish VAT authorities may mitigate penalties in certain circumstances.

## K. EU declarations

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

The threshold for INTRASTAT Arrivals is €191,000.

The threshold for INTRASTAT Dispatches is €635,000.

The INTRASTAT return period is monthly. The submission deadline is the 10th business day of the month following the return period. INTRASTAT returns must be filed electronically through the Revenue On-Line System (ROS). Returns must be completed in euros.

The penalty for a late or incorrect submission of an INTRASTAT return is €1,265.

**EU Sales Lists (VAT Information Exchange System [VIES] statement).** If an Irish accountable person makes intra-Community supplies of goods and/or services, it must submit an EU Sales List (ESL). No threshold applies to ESLs. If no intra-Community supplies are made in a period, a “nil” statement must be submitted for that period.

ESLs are submitted quarterly if the quarterly amount of intra-Community supplies of goods does not exceed €100,000. Otherwise, ESLs are submitted monthly. An accountable person that is entitled to submit ESLs on a quarterly basis may apply to submit ESLs monthly if it is more convenient to do so. The submission deadline is the 23rd day of the month following the end of the return period.

The penalty for a late or incorrect submission of an ESL is €4,000.

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## Isle of Man

(Country code 44)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 April 1973
European Union (EU) member state	No (but forms part of the EU for customs and VAT matters)
Administered by	Isle of Man Customs and Excise Division ( <a href="http://www.gov.im">http://www.gov.im</a> )
VAT rates	
Standard	20% (effective from 4 January 2011)
Reduced	5%
Other	Zero-rated, exempt and exempt with credit
VAT number format	GB 999.9999.99
VAT return period	Quarterly Monthly (if requested by a business that receives regular repayments) Annual (on request if annual taxable turnover is less than £1,350,000)
Thresholds	
Registration	£73,000 (effective from 1 April 2011)
Deregistration	£71,000 (effective from 1 April 2011)
Distance selling Intra-Community acquisitions	£70,000 £73,000 (effective from 1 April 2011)
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

The Isle of Man is an international financial center that is part of the territory of the United Kingdom for indirect tax purposes. However, the Customs and Excise Division in the Isle of Man operates independently from that of the United Kingdom, and the Isle of Man has its own VAT legislation. The United Kingdom and Isle of Man are considered one for VAT purposes, and the VAT legislation of the two jurisdictions is very similar. Consequently, the provisions outlined in this chapter generally apply to the United Kingdom, unless otherwise noted.

VAT applies to the following transactions:

- The supply of goods or services made in the Isle of Man or the United Kingdom by a taxable person

- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in the Isle of Man
- The importation of goods from outside the EU, regardless of the status of the importer

### C. Who is liable

A taxable person is any entity or person that is required to be registered for VAT. It includes any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions or distance sales in the Isle of Man in the course of a business in excess of the turnover thresholds.

Effective from 1 April 2011, the VAT registration threshold is £73,000; this threshold generally increases annually. The distance selling threshold is £70,000; this threshold is set by EU law and does not generally increase from year to year.

**Exemption from registration.** A taxable person whose turnover is wholly or principally zero-rated (see Section D) may request exemption from registration.

**Voluntary registration.** A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A business may also register for VAT voluntarily in advance of making taxable supplies.

**Group registration.** Corporate bodies that are under “common control” may apply to register as a VAT group. A VAT group is treated as a single taxable person. The group members share a single VAT number and submit a single VAT return. VAT is not charged on supplies made between group members. Group members are jointly and severally liable for all VAT liabilities.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in the Isle of Man. A nonestablished business must register for VAT if it makes any of the following supplies in the Isle of Man, in excess of the annual thresholds:

- Goods located in the Isle of Man at the time of supply
- Intra-Community acquisitions of goods (see the chapter on the EU, page 208)
- Distance sales of goods to Isle of Man residents who are not taxable persons (see the chapter on the EU, page 208)
- Services to which the reverse charge (see *Reverse charge*) does not apply

A nonestablished business that registers for VAT may normally do so from its place of business outside the Isle of Man. The application form (VAT 1 MAN) may be sent to the following address:

Isle of Man Customs and Excise  
 P.O. Box 6  
 Custom House  
 North Quay  
 Douglas IM99 1AG  
 Isle of Man

**Reverse charge.** If a nonestablished business supplies services to an Isle of Man taxable person but does not register for VAT, the taxable person may be required to account for the VAT due under “reverse-charge” accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax (that is, VAT on allowable purchases) depending on the taxable person’s partial exemption status (see Section F). This provision does not apply in all circumstances. For example, it may not be used for services related to land.

**Reverse-charge accounting for domestic supplies of mobile phones and computer chips.** A domestic reverse charge with respect to specified goods is designed to combat missing trader fraud. The reverse charge applies, with some exclusions, to supplies of mobile phones and computer chips that are valued at £5,000 or more and that are supplied in the United Kingdom or Isle of Man by a VAT-registered business to another VAT-registered business. Under the reverse-charge accounting mechanism, it is the responsibility of the customer, rather than the supplier, to account for VAT on supplies of the specified goods.

**Reverse-charge accounting for domestic supplies of emissions allowances.** Effective from 1 November 2010, purchasers of specified emissions allowances must account for VAT under a domestic reverse-charge accounting procedure, rather than paying VAT to the supplier.

**Tax representatives.** A nonestablished business may choose to appoint a tax representative or agent to act on its behalf in VAT matters in the Isle of Man.

The Isle of Man VAT authorities may require that a nonestablished person appoint a tax representative. However, this condition may be imposed only if the business is established in a country outside the EU that has not agreed on mutual assistance provisions with the Isle of Man.

**Deregistration.** A taxable person that ceases to be eligible for VAT registration must deregister.

A taxable person may also request deregistration if its taxable turnover drops below the deregistration threshold (£71,000 in 2011) or if its taxable turnover is wholly or principally zero-rated (see Section D). However, deregistration is not compulsory in these circumstances.

**Late-registration penalties.** A penalty is assessed for late VAT registration, which is calculated as a percentage of the VAT due (output tax less input tax).

If the liability to register for VAT arises before 1 April 2010, the penalty rate that applies depends on the length of time between when a business should have been registered and when it registers. If this period is less than 9 months, the penalty is 5% of the VAT due. If the period is between 9 and 18 months, the penalty increases to 10% of the VAT due. For businesses that register more than 18 months late, the penalty rate is 15% of the VAT due. The minimum penalty is £50.

If the liability arises on or after 1 April 2010, the penalty rate that applies may range from 30% (in most cases) to 100% (for



deliberate and concealed acts) of the VAT due. However, measures exist for the reduction of such penalties if the business discloses the failure to register to the VAT authorities. The degree of mitigation depends on the “quality” of the disclosure.

Penalties apply to a range of other offenses (see Section I).

#### **D. VAT rates**

In the Isle of Man, the term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). In addition, some supplies are classified as “exempt with credit.” Exempt with credit supplies are effectively treated as if they were zero-rated, but they are not within the scope of VAT. This means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include services supplied to taxable persons in the EU and to customers outside the EU.

If an Isle of Man company is not required to register for VAT but the beneficial owner is a non-Isle of Man or non-U.K. resident, look-through provisions may apply. In 1983, the Isle of Man reached agreement with the U.K. government to introduce measures to look through the fact that a company is resident in the Isle of Man and to consider the place of residence of the beneficial owner. Consequently, if a package of corporate administration services is provided to an Isle of Man company in these circumstances, the supply is not subject to U.K. VAT but the supply may be billed to the beneficial owner as an exported service (see the chapter on the United Kingdom, page 677).

In the Isle of Man, the following three rates of VAT apply:

- Standard rate: 20%
- Reduced rate: 5%
- Zero rate (0%)

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

Some differences exist between the Isle of Man and the United Kingdom with respect to the supplies that are eligible for zero rating and the reduced rate. The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a zero rate or a reduced rate of VAT in the Isle of Man (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Betting and gaming  
 Education  
 Finance  
 Insurance  
 Land (in most cases)  
 Postal services  
 Human blood products  
 Medical services

**Examples of goods and services taxable at 0%**

Books, newspapers and periodicals  
Certain foodstuffs  
Children's clothing and footwear  
Drugs and medicines supplied on prescription  
New housing  
Transport services  
Passenger transport (including yachts)  
Exports of goods and related services

**Examples of goods and services taxable at 5%**

Fuel and power supplied to domestic users and charities  
Energy-saving materials  
Building materials for residential conversions  
Sanitary protection products  
Children's car seats  
Domestic property repairs  
Holiday accommodation

**E. Time of supply**

The time when VAT becomes due is called the "time of supply" or "tax point." The "basic" tax point under Isle of Man law is the point when the goods are either removed from the supplier's premises or made available to the customer, or when the services are performed.

The basic tax point may be overridden by the creation of an "actual" tax point. An actual tax point may occur before or after the basic tax point.

*Before the basic tax point.* If the supplier issues a VAT invoice or receives payment with respect to the supply, a tax point is created to the extent covered by the invoice or payment.

*After the basic tax point.* If an invoice is issued within 14 days after the supply, the date of the invoice becomes the tax point. Taxable persons may request permission to extend the period for this invoicing tax point to up to a maximum of 30 days after the basic tax point.

**Deposits and prepayments.** The receipt of a deposit or prepayment normally creates an actual tax point if the amount is paid in the expectation that it will form part of the total payment for a particular supply. A tax point is created only to the extent of the payment received.

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month when the acquisition occurred. If the supplier issues an invoice before this date, the tax point is when the invoice is issued.

**Intra-Community supplies of goods.** For intra-Community supplies of goods, the time of supply is the earlier of the 15th day of the month following the month when the goods are removed from the supplier or the date on which the VAT invoice is issued.

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

**Goods sent on approval or for sale or return.** The tax point for goods sent on approval or for sale or return is the earlier of when the goods are accepted by the customer or 12 months after their removal from the supplier. However, if a VAT invoice is issued before these dates, the invoice creates an actual tax point, up to the amount invoiced.

**Continuous supplies of services.** If services are supplied continuously, a tax point is created each time a payment is made or a VAT invoice is issued, whichever occurs earlier.

**Reverse-charge services.** Effective from 1 January 2010, the tax point for reverse-charge services is when the service is performed. For single services, this is when the service is completed or when payment for the service is made, whichever is earlier. For a continuous supply of services, the tax point is the end of each periodic billing or payment period or when payment is made, whichever is earlier. For continuous supplies that are not subject to billing or payment periods, the tax point is 31 December each year unless a payment creates an earlier tax point.

## F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in the Isle of Man or the United Kingdom, VAT paid on imports of goods into the Isle of Man or the United Kingdom, and self-assessed VAT on intra-Community acquisitions of goods and reverse-charge services (see the chapter on the EU, page 208).

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

Special rules apply to the recovery of input tax on expenditure incurred before registration and after deregistration.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Purchase of a car (unless the car is available exclusively for business use)

Fifty percent of VAT incurred on the rental or lease of a car used for mixed business and private purposes

Private expenditure

Assets transferred as part of a going concern

Business entertainment and hospitality (except when provided to overseas customers)

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

Conferences, exhibitions, training and seminars

Taxi services

Restaurant expenses for employees

Accommodation

Motoring expenses and fuel for business purposes

Business use of a home telephone

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

An Isle of Man taxable person that makes exempt supplies may calculate the amount of VAT that it may recover in several ways. The standard partial exemption calculation method is a two-stage calculation. The following are the two stages of the calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as taxable supplies for these purposes.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation of recoverable VAT may be performed using the general pro rata method based on values of supplies made, or it may be based on a special calculation agreed with the VAT authorities.

If the standard calculation provides an unfair or distortive result, a special calculation method may be agreed with the VAT authorities. In some cases, the authorities may impose the use of a special calculation method.

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

In the Isle of Man, the capital goods adjustment applies to the following assets for the number of intervals (normally a year) indicated:

- Land and buildings valued at £250,000 or more are adjusted for a period of 10 intervals.
- Computer hardware valued at £50,000 or more is adjusted for a period of five intervals.

The adjustment is applied each tax year following the year of acquisition to a fraction of the total input tax (1/10 for land and

buildings and 1/5 for computer hardware). The adjustment may result in either an increase or decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

**Refunds.** If the amount of VAT recoverable exceeds the amount of VAT payable in a period, a refund may be claimed. This is done automatically through the submission of the periodic VAT return. A taxable person that receives regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

### **G. Recovery of VAT by nonestablished businesses**

The Isle of Man refunds VAT incurred by businesses that are neither established nor registered for VAT in the Isle of Man. Non-established businesses may reclaim VAT to the same extent as VAT-registered businesses. For the general VAT refund rules of the EU 8th and 13th Directives, see the chapter on the EU, page 208.

**EU businesses.** For businesses established in the EU, refunds are made in accordance with the terms of the EU 8th Directive. A new electronic VAT refund procedure was introduced across the EU for all claims submitted after 1 January 2010. This new system replaces the prior paper-based system. Claims are made through the claimant's own government gateway rather than directly to the EU member state making the refund as under the prior law.

Refunds are based on the calendar year. The final deadline for refund claims is 30 September of the year following the year in which the tax was incurred. Claims must be accompanied by the appropriate documentation.

**Non-EU businesses.** For businesses established outside the EU, refunds are made in accordance with the terms of the EU 13th Directive. The Isle of Man does not generally exclude businesses from any country from eligibility.

Refunds are based on the period from 1 July to 30 June (a prescribed year), and the final deadline for refund claims is 31 December following the end of the prescribed year in which the tax was incurred.

Applications for 13th Directive refunds of Isle of Man VAT must be submitted in English and must be accompanied by the appropriate documentation (see the chapter on the EU, page 208). The minimum claim period is three months and the maximum period is one prescribed year. The minimum claim for a period of less than a year is £130. For an annual claim, the minimum amount is £16.

Applications must be sent to the following address:

HM Revenue and Customs, VAT Overseas Repayments  
13th Directive  
Customs House  
P.O. Box 34  
Londonderry BT48 7AE  
Northern Ireland

## H. Invoicing

**VAT invoices and credit notes.** An Isle of Man taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies (see the chapter on the EU, page 208). Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the EU, page 208).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply. A credit note must be issued within one month after the discovery of the mistake or overcharge, and it must be cross-referenced to the original VAT invoice.

**Proof of exports and intra-Community supplies.** Isle of Man VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods except distance sales (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left the Isle of Man/United Kingdom. Acceptable proof includes the following documentation:

- For an export, customs documentation and commercial documentation, such as consignment notes and airway bills
- For an intra-Community supply, a range of commercial documentation, such as customer orders, sales invoices, transport documentation and packing lists

In all cases, the evidence must clearly identify the supplier, the customer, the goods and the destination. The evidence must be obtained within three months after the time of supply and be retained for at least six years.

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, the VAT value must be converted into pounds (£), using an acceptable exchange rate, and stated in the invoice. Suppliers may use any of the following rates:

- The market selling rate at the time of supply
- The VAT authorities' published exchange rate for the period
- Any other acceptable rate agreed to in writing with the VAT authorities

## I. VAT returns and payment

**VAT returns.** VAT returns are generally submitted quarterly. VAT return quarters are staggered into three cycles to ease the VAT authorities' administration. The following are the cycles:

- March, June, September and December
- February, May, August and November
- January, April, July and October

At the time of registration, each taxable person is notified about the return cycle that it must use. However, the Isle of Man VAT authorities may consider a request to use VAT return periods that correspond with a taxable person's financial year. In addition, a taxable person whose accounting dates are not based on calendar months may request permission to adopt nonstandard tax periods.

Taxable persons that receive regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

Returns must be submitted by the last day of the month following the end of the return period. They may be submitted by mail or electronically. Payment in full is also due by the same date. However, taxable persons that pay their VAT return liabilities electronically have an additional 7 days after the normal due date to make payments.

VAT returns must be completed in pounds, but return liabilities may be paid in pounds or in euros.

**Payments on account.** Taxable persons whose annual VAT liability is greater than £2,300,000 must make payments on account, which are interim payments made at the end of the second and third months of each VAT quarter. The balance of VAT payable for the period is made at the end of the quarter. The amount of the payment is generally based on the taxable person's VAT liability for the preceding 12 months. Electronic transfers must be used for all payments on account.

**Cash accounting.** Businesses with annual turnover of less than £1,350,000 may apply to use cash accounting. Under the cash accounting scheme, businesses account for output VAT and reclaim input VAT on the basis of cash received and paid, rather than on the basis of invoices issued and received.

**Annual accounting.** Businesses with annual turnover of less than £1,350,000 may apply to complete an annual VAT return. Businesses that use annual accounting must make either three quarterly or nine monthly VAT payments, depending on the level of turnover. Any balancing payment must be made with the annual return. The annual return is due by the last day of the second month following the end of the taxable person's VAT year.

**Special accounting.** A flat-rate scheme exists for businesses with an annual taxable turnover of less than £150,000. Under the scheme, eligible businesses may opt to calculate VAT due based on a fixed percentage of their total turnover. The percentages range from 4% to 14.5%, depending on the trade sector of the business.

Other special accounting schemes exist for retailers, including second-hand goods retailers, tour operators, gold traders and farmers.

**Penalties for late submission and late payment.** If a business with a turnover of £150,000 or more submits a VAT return or payment late, the taxable person is in default and is issued a Surcharge Liability Notice. The surcharge liability period initially lasts for 12 months from the date of the notice. Any further default within this period triggers a penalty and extends the notice period. The penalty is a percentage of the VAT due.

The following are the percentage penalties:

- For the first further default in the notice period: a penalty of 2% of the VAT due
- For the second further default in the notice period: a penalty of 5% of the VAT due

- For the third further default in the notice period: a penalty of 10% of the VAT due
- For the fourth and subsequent further defaults in the notice period: a penalty of 15% of the VAT due (for each further default)

In the 2% and 5% penalty bands, amounts of less than £400 are not enforced by the VAT authorities. If payment is made on time, but the return is submitted late, no penalty is levied. However, the surcharge liability notice period is extended.

For businesses with turnover of less than £150,000, a help letter is issued at the first default stage. At the first further default, a Surcharge Liability Notice is issued, followed by the same penalties listed above for further defaults.

**Penalties for errors made on VAT returns.** The old “misdeclaration penalty” regime applies to errors made on VAT returns if the return was due for submission before 1 April 2009. Under the old regime, errors (misdeclarations) are subject to an objective mathematical test to determine whether a penalty arises. The penalty rate is 15% of the VAT due. No penalty applies if a “reasonable excuse” exists for the error. In addition, penalties can be reduced if mitigating circumstances that fall short of a reasonable excuse exist.

A new penalty regime applies to inaccuracies on VAT returns if the return is due for submission on or after 1 April 2009. Under the new penalty regime, if a business makes an error on a VAT return despite taking “reasonable care,” it should not be liable to a penalty. Otherwise, the penalty rate depends on the behavior giving rise to the error (rather than the size of the error) and may range from 30% (for “careless” errors) to 100% (for “deliberate and concealed” acts) of the VAT due. However, provisions exist for the reduction of such penalties if the business makes an unprompted disclosure to the VAT authorities. The degree of mitigation also depends on the “quality” of the disclosure.

## J. EU declarations

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

The 2012 threshold for INTRASTAT Arrivals is £600,000.

The 2012 threshold for INTRASTAT Dispatches is £250,000.

A taxable person whose intra-Community trade exceeds £16 million (for either Arrivals or Dispatches) must also provide additional information concerning terms of delivery.

INTRASTAT declarations must be submitted monthly and completed in pounds. The submission deadline is the last day of the month following the end of the INTRASTAT return period, for periods up to 31 March 2012. Effective from 1 April 2012, the due date for submission will be 21 days following the end of the INTRASTAT return period.



Penalties may be imposed if a taxable person's INTRASTAT declarations are persistently late, missing or inaccurate.

**EU Sales Lists.** If an Isle of Man taxable person makes intra-Community supplies of goods and/or services in any return period, it must submit an EU Sales List (ESL). Supplies of services are considered to be intra-Community supplies of services if the place of supply is the customer's country and if a reverse charge applies in the customer's member state. An ESL is not required for any period in which the taxable person does not make any intra-Community supplies.

For paper returns, ESLs must be submitted within 14 days after the end of the VAT quarter. For electronic returns, they must be filed within 21 days after the end of the VAT quarter. Taxable persons that supply goods to other EU countries may be required to submit monthly ESLs. Monthly submission of ESLs is required if the value of supplies of intra-Community goods (excluding VAT) exceeds £35,000 in the current quarter or any of the previous four quarters (effective from 1 January 2012; the previous threshold was £70,000). Small businesses that make intra-Community supplies of less than £11,000 per year may submit annual ESLs.

Penalties are assessed for the late submission of ESLs and for material inaccuracies in ESLs.

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Mass Erech Mussaf (MA'AM)
Date introduced	1 July 1976
European Union (EU) member state	No
Administered by	Israel Tax Authority (ITA) Department of Customs and VAT ( <a href="http://www.ozar.mof.gov.il/taxes">http://www.ozar.mof.gov.il/taxes</a> )
VAT rates	
Standard	16%
Other	Zero-rated and exempt

Threshold  
Registration

Annual turnover of NIS 100,000 (this threshold is effective from 1 January 2012; for persons that have turnover below the threshold, registration as an “exempted VAT registered entity” is required; certain service providers, such as advisors and professionals, may not register as exempted entities; for these persons, the threshold does not apply

## B. Scope of the tax

The Israeli Value-Added Tax law imposes VAT liability on the following transactions:

- A sale of “assets,” including real estate, if the “assets” are located in Israel, or delivered or exported from Israel (delivery from a location outside of Israel to a location outside of Israel is out of the scope of the law; this has implications for the input VAT deduction [see Section F])
- Sale of intangibles or the provision of “services” by a “taxable person” in the course of its business
- Sale of “assets” if the input tax imposed on its purchase or its import has been deducted
- A “random transaction” with respect to real estate (depends on the status of the seller and the purchaser and the classification of the “asset” sold)
- Provision of “services” by non-Israeli suppliers to Israeli customers
- Support, benefit or subsidy provided to a “taxable person” (for example, waiver of debt), unless an exemption applies
- Importation of goods into Israel

The term “taxable person” refers to a person or an entity that sells assets or provides services in the course of its business, provided that it is not a nonprofit organization or a financial institution. This includes an entity that conducts a random transaction. An entity that has annual turnover not exceeding NIS 100,000 (this threshold is effective from 2012) and that does not fall under the list of exceptions (for example, advisors and professionals) must register as an exempted entity for VAT purposes.

The term “asset” includes real estate and goods. “Goods” include all kinds of tangible and intangible property and all kinds of rights or interests. However, it does not include securities, shares or similar instruments.

The term “service” includes all types of services provided to others for a consideration, including credit transactions and money deposits. It does not include services provided by an employee to his or her employer.

“A random transaction” is the supply of assets or services in the course of a commercial activity. For real estate, it includes the sale of real estate by entities that are not engaged in the real estate business to authorized VAT-registered entities, nonprofit organizations, financial institutions or to certain purchasers specified in the Real Estate Tax Law.

### C. Who is liable

A taxable person is liable for VAT on the sale of assets or the supply of services.

Several exceptions to the above rule exist, such as the following:

- For services provided by non-Israeli suppliers to Israeli customers, the Israeli customers may be liable for VAT if the supplier does not have to register in Israel.
- For certain purchases of real estate, the purchaser is liable for VAT.

For imported goods, the importer of record is liable for VAT.

**Consolidated registration.** Consolidated VAT registration is possible for two or more VAT-registered entities that are the following:

- A company and its subsidiaries
- Two or more subsidiaries owned by the same parent company
- A partnership and a partner that holds 50% or more of the rights in the partnership

The group members share a group VAT number and submit a single monthly or bimonthly VAT report. In addition, each member must submit an annual detailed digital VAT report, detailing the annual sum of output VAT and input VAT with respect to the other group members and also the sum of output VAT and input VAT with respect to third parties. VAT is not charged on supplies made between group members, unless the VAT is not deductible as input tax. Group members are jointly and severally liable for each other's VAT liabilities. In practice, they may also be liable for other tax liabilities in certain circumstances.

**Foreign residents.** A "foreign resident" that makes transactions in Israel, as defined in the VAT Law, or that acts as a financial institution or nonprofit organization in Israel must register for VAT in Israel and appoint an Israeli resident representative to act on its behalf with respect to VAT matters within 30 days from the date it began such activities in Israel.

The term "foreign resident" means an individual who permanently resides outside Israel or an entrepreneur who is registered or incorporated outside of Israel.

For the purpose of zero-rate VAT for supplies made to foreign residents, additional requirements apply to meet the definition of "foreign resident" (see Section D).

### D. VAT rates

VAT at the standard rate of 16% applies to the supply of assets or services that are in the scope of VAT law and on the importation of goods, unless zero-rate VAT or a specific exemption applies.

Zero-rate VAT allows input VAT deduction, but an exemption does not allow input VAT deduction.

The following tables list examples of exempt transactions and zero-rated transactions (these lists are not exhaustive).

#### Examples of exempt transactions

Leasing of apartments for residence purposes for a period that does not exceed 25 years

Transactions of an exempted entity in an annual amount that does not exceed NIS 100,000

Certain construction services for urban renewal (reconstruction and redevelopment of dilapidated buildings) of authorized projects

Sales of diamonds and precious stones

Importation of goods

#### **Examples of zero-rated transactions**

Exports of goods

Sales of intangibles to foreign residents

Supplies of services to foreign residents, subject to requirements and conditions (for example, the services do not relate to assets in Israel, and the services are not also provided to an Israeli resident in Israel)

Hotel accommodation for tourists

Leasing of private cars to tourists

International transportation

For the purpose of zero-rate relief the provision of services or the sale of intangibles to foreign residents, the term “foreign resident” is defined as an individual who permanently resides outside Israel or an entrepreneur that is registered or incorporated outside Israel, provided that the individual or entrepreneur is not engaged in a business activity in Israel.

### **E. Time of supply**

**Goods.** VAT on the delivery of goods is due when the goods are delivered to the purchaser.

**Services.** Cash-basis VAT reports are required primarily for service providers that have annual turnover not exceeding NIS 15 million if certain conditions are met. For service providers that have annual turnover exceeding NIS 15 million, the tax is due when the service is supplied (except for services as further detailed). For the provision of services that can be divided into separate parts, the tax is due for each part separately. For continuous services that cannot be divided into separate parts, the tax is due when the provision of the services is completed. However, for each payment that is made before that date, VAT is due when the payment is made. When the provision of the services is completed, VAT on the remaining taxable amount that has not yet been taxed is due.

**Real estate transactions.** For real estate transactions, VAT is due when the possession of the asset is transferred to the purchaser or when the asset is registered in the name of the buyer, whichever is earlier. For construction work, the tax is due when the work is completed or when the possession of the asset is transferred to the customer, whichever is earlier.

In addition, with respect to the above rules, if a payment is made before the above dates, VAT is due for that payment on the date of payment.

**Imported goods.** VAT is due when the goods are cleared from customs.

## F. Recovery of VAT by a taxable person

A taxable person may recover input tax, which is the VAT charged on assets (purchased locally or imported) or services supplied to that taxable person for business purposes, if such items are used or will be used for taxable transactions. This excludes, for example, private expenditures, and expenditures that are used for out-of-scope transactions or exempt transactions.

A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made by it, provided that the proper tax invoices or importation documents are received in support of the input VAT deduction and that the deduction is claimed within six months after the date of issuance of these documents (a procedure for an extension is available).

**Refunds.** If the amount of VAT recoverable exceeds the amount of VAT payable in a reporting period, the excess amount may be refunded within 30 days. A refund can be obtained by submitting the periodic VAT report, the additional detailed digital report and copies of the tax invoices exceeding the relevant amount if requested by the authorities. The authorities may postpone the refund and conduct an examination or audit.

## G. Invoicing

Only a taxable person may issue a tax invoice, and it must do so if requested by the customer. A tax invoice is required to support a claim for input tax deduction (see Section F). The invoice must be issued within 7 days when the time of supply is based on actual payments or within 14 days in all other cases.

The authorities intend to assign invoice numbers to each VAT-registered entity.

A VAT credit note may be used to reduce the amount of VAT charged on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply. A credit note may also be used in a case of bad debts if all reasonable efforts have been exhausted to collect the debt and if all of the regulation requirements are fulfilled.

## H. Reports and payments

**Reports.** VAT reports must be submitted on a monthly basis if annual turnover exceeds NIS 1,500,000 or on a bimonthly basis if annual turnover does not exceed NIS 1,500,000. Reports must be submitted by the 15th day of the month following the end of the reporting period. Payment in full is also due by the same date.

**Electronic filing.** Effective from 1 January 2011, an online detailed digital report is required for all businesses that have annual turnover exceeding NIS 4 million or that use the double-entry bookkeeping system. Effective from 1 January 2012, an online detailed digital report is required for all taxable persons, regardless of their level of annual turnover.

**Penalties.** Penalties for noncompliance with VAT obligations include fines and imprisonment.

A VAT-registered entity that fails to submit a report when required is liable to pay a fine of NIS 204 for every two weeks of tardiness.

If a VAT-registered entity fails to pay an amount of tax when required, linkage differentials (such amount multiplied by the rate of increase of the consumer price index during the period in question) and interest are payable on the amount unpaid.

Penalties may also apply in certain other circumstances.

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Imposta sul valore aggiunto (IVA)
Date introduced	1 January 1973

European Union (EU) member state	Yes
Administered by	Ministry of Finance ( <a href="http://www.finanze.it">http://www.finanze.it</a> )
VAT rates	
Standard	21%
Reduced	4%/10%
Other	Exempt and exempt with credit
VAT number format	IT 0 4 1 9 6 7 6 0 0 1 3
VAT returns	Annual (all businesses)
VAT payment periods	Monthly Quarterly (if turnover in the preceding year did not exceed €400,000 for supplies of services or €700,000 for supplies of goods, effective from 1 January 2012)
Thresholds	
Registration	None
Deregistration	None
Distance selling	€35,000
Intra-Community acquisitions	None
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Italy by a taxable person (see the chapter on the EU, page 208)
- The intra-Community acquisition of goods from another EU member state by a taxable person
- Reverse-charge services received by a taxable person in Italy (that is, services for which the recipient is liable for the VAT due)
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, Italy consists of the territory of the Republic of Italy excluding the communities of Livigno and Campione d'Italia and the Italian waters of Lake Lugano. Special arrangements apply to goods imported into Italy from the Vatican City and the Republic of San Marino, which do not form part of the territory of the Republic of Italy.

## C. Who is liable

The term “taxable person” refers to any individual or legal entity that makes supplies of goods or services in the course of a business, or that performs an artistic or professional activity in Italy.

The occasional supply of goods or services is not generally within the scope of Italian VAT. However, any supply of goods or services made by a corporate entity is regarded as a business activity, unless it is specifically treated as a nonbusiness activity by the Italian VAT authorities.

**Group registration.** A corporate body that controls one or more other companies may apply to form a VAT group. The controlling company must form part of the group, but it is not necessary for all the companies that it controls to be included.

An Italian VAT group is not treated as a single taxable person. The group members retain separate VAT numbers, and VAT is chargeable on supplies made between group members. The use of a VAT group is effectively an administrative convenience aimed at offsetting VAT payments and repayments from group members. EU entities that are registered for VAT in Italy may be part of an Italian VAT group.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Italy. A nonestablished business must register for Italian VAT if it makes certain supplies, such as the following:

- Goods located in Italy at the time of supply that are supplied to nontaxable persons or other nonestablished businesses
- Intra-Community acquisitions in Italy or intra-Community sales
- Distance sales in excess of the annual threshold (see the chapter on the EU, page 208)
- Services taxable in Italy that are supplied to nontaxable persons or other nonestablished businesses

If a nonestablished business supplies goods or services to an Italian taxable person, the Italian-established taxable person is liable to account for the VAT due, under reverse-charge accounting. Under this type of accounting, the taxable customer must self-assess the tax due. However, in such a case, a taxable person established in a non-EU country that does not register may not recover any Italian VAT charged to it unless the VAT is refundable under the terms of the EU 13th VAT Directive (for example, companies resident in Israel, Norway and Switzerland; see the chapter on the EU, page 208). A taxable person established in an EU country that does not register may recover any Italian VAT charged to it under the terms of the EU 8th Directive.

A nonestablished business that makes or receives taxable supplies of goods or services in Italy may choose to register for Italian VAT even if registration is not compulsory.

If Italian domestic supplies of goods and services are performed by nonestablished entities that are registered for VAT purposes in Italy for Italian-established VAT taxpayers, VAT is applied through the reverse-charge mechanism by the Italian-established VAT taxpayers. Nonestablished entities registered for VAT in Italy may no longer issue invoices applying Italian VAT to Italian-established VAT taxpayers.

**Tax representatives.** A foreign business that is established in another EU member state or in a non-EU country that has suitable mutual-assistance provisions with the EU (currently no countries have such mutual-assistance provisions) may directly register in Italy for VAT without the appointment of a VAT representative.

Foreign businesses established in countries other than the countries mentioned above must appoint a VAT representative to register for VAT. The representative must be given a power of attorney to act on behalf of the nonestablished business.



**Late-registration penalties.** Late registration for VAT may result in the imposition of various penalties, depending on the errors committed. Penalties include the following:

- Failure to inform the Italian VAT authorities regarding the beginning of activities: a penalty ranging from €516 to €2,065.
- Failure to issue and record invoices: a penalty ranging from 100% to 200% of the VAT not invoiced or posted.
- Failure to issue and record invoices for exempt and exempt with credit transactions: a penalty ranging from 5% to 10% of the amount not invoiced or posted. However, if the violation is not relevant for the assessment of the income, a penalty ranging from €258 to €2,065 applies.
- Failure to make payments of VAT: a penalty of 30% of the payment not made, plus interest on the late payment.
- Failure to maintain VAT records: a penalty ranging from €1,032 to €7,746.
- Failure to file the annual VAT return: a penalty ranging from 120% to 240% of VAT due.

#### **D. VAT rates**

“Taxable supplies” are supplies of goods and services that are liable to VAT. “Exempt supplies” are supplies of goods and services that are not liable to tax, and that do not give rise to a right of input tax deduction (see Section F). In addition, some supplies are “exempt with credit,” which means that no VAT is chargeable but the supplier may recover related input VAT. Exempt with credit supplies include intra-Community supplies, exports of goods outside the EU and related services, and supplies of some services supplied to another taxable person established outside Italy.

The following VAT rates apply in Italy:

- Standard rate: 21% (effective from 17 September 2011)
- Reduced rates: 4% and 10%

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at reduced VAT rates (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

Education (under certain conditions)

Finance

Insurance

Postal services

Medical services

##### **Examples of goods and services taxable at 4%**

Books, newspapers and periodicals

Certain foodstuffs

Medical equipment

Supplies of food and drink in a staff restaurant

##### **Examples of goods and services taxable at 10%**

Medicines

Supplies of food and drink in restaurants, bars and hotels

Supplies of electricity, methane and liquid petroleum, all for domestic use

Electricity and gas for use by extraction enterprises and industrial enterprises

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The rules for when Italian VAT is due vary according to the nature of the transaction.

**Goods.** For immovable property, the time of supply is the date on which the agreement to transfer the property is signed. For movable property, the basic time of supply is the date of delivery or dispatch of the goods. The time of supply may be an earlier date if an invoice is issued or if full or partial payment is received before the goods are supplied.

**Services.** The time of supply for services is the date of full or partial payment of the consideration. The time of supply may be earlier if an invoice is issued before the services are supplied. No time of supply is created at the date of performance or completion of the service, in the absence of any payment or invoice. The time of supply for purchases of services falling under Article 44 of the EU VAT Directive that are performed on an ongoing basis and last more than one calendar year and that are subject to reverse charge in Italy is the end of the calendar year if no payments (including partial or advance payments) were made during the calendar year.

**Deposits and prepayments.** The receipt of a deposit or prepayment for a particular supply of goods or services creates a time of supply for up to the amount paid.

**Goods sent on approval or for sale or return.** The time of supply for goods sent on approval or for sale or return is the date on which the goods are accepted by the customer or 12 months after their removal, whichever is the earlier.

**Intra-Community supplies.** The time of supply rules for intra-Community supplies of goods are the same as those for domestic supplies.

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the date of delivery of the goods in Italy, or the date of arrival at the final destination in Italy if the purchaser is responsible for arranging transport. The time of supply may be brought forward to an earlier date if an invoice is issued or if the purchaser makes full or partial payment before the goods are supplied.

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

### **F. Recovery of VAT by taxable persons**

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

Input tax includes VAT charged on goods and services in Italy, VAT paid on imports of goods and VAT self-assessed on intra-Community/domestic acquisitions of goods and reverse-charge transactions (see the chapter on the EU, page 208).

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

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

#### **Examples of items for which input tax is nondeductible**

Transport of persons

Business gifts costing more than €25.52

60% of the VAT paid on the lease, rental or purchase of a car used for business purposes, maintenance costs and fuel

Private expenditure

Entertainment expenses

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. If an Italian taxable person makes both exempt and taxable supplies it may not recover input tax in full. This situation is referred to as “partial exemption.” Exempt with credit supplies are treated as taxable supplies for these purposes.

In Italy, the standard partial exemption calculation method is based on the ratio of taxable turnover to total turnover. Recovery percentages are rounded up or down to the nearest whole number (for example, a recovery percentage of 77.5% is rounded down to 77%, while a recovery percentage of 77.6% is rounded up to 78%).

**Capital goods scheme.** Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the destination or use of the goods and/or on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time if the destination or use of the goods changes and/or the taxable person’s partial exemption recovery percentage changes during the adjustment period by more than 10 percentage points.

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

- Land and buildings (adjusted for a period of 10 years)
- Other capital assets as defined in the Italian civil code (adjusted for a period of five years)

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax (1/10 for land and buildings and 1/5 for other capital assets). The adjustment may result

in either an increase or a decrease of deductible input VAT, depending on, for example, whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

**Refunds to VAT-registered taxable persons.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the credit may be claimed annually or quarterly if specific conditions are met. If the conditions for requesting a refund are not met, the input VAT credit may be carried forward to offset output VAT in the next VAT period.

*Annual VAT refund.* An annual VAT refund may be claimed if any of the following conditions are met:

- The average VAT rate paid by the taxable person on purchases exceeds the average VAT rate applied to its sales, increased by 10 percentage points.
- Exports, intra-Community supplies or international services make up more than 25% of the taxable person's total turnover.
- The VAT credit arises from purchases or imports of depreciable assets or purchases of goods and services for research and development (R&D) activities. However, the repayment is limited to the amount of VAT on purchased or imported depreciable assets and R&D goods and services.
- The majority of transactions are out of the scope of VAT under the place-of-supply rules.
- The taxpayer is a nonestablished business registered for VAT in Italy.
- The taxable person has an input tax credit in the annual VAT return for the following three years. In this case, the repayment is limited to the lowest of the credit amounts in the three years.

*Quarterly VAT refund.* A quarterly refund may be claimed if any of the following conditions are met:

- The average VAT rate paid by the taxable person on purchases exceeds the average VAT rate applied to the taxable person's sales, increased by 10 percentage points.
- Exports, intra-Community supplies or international services make up more than 25% of the taxable person's total turnover.
- The VAT credit arises from the purchase or import of depreciable assets, which represents more than 2/3 of the total amount of purchases subject to VAT. The repayment is limited to the amount of purchased depreciable assets.
- The taxpayer is a nonestablished business registered for VAT in Italy that performs domestic supplies in Italy for Italian-established businesses (subject to reverse charge).

The VAT credit must exceed €2,582, unless the taxable person is claiming the lowest credit amount in a three-year period. For refunds exceeding €5,164, the claimant must provide a bank guarantee covering the amount of the VAT credit and interest for a period of three years, unless special conditions are satisfied.

Taxable persons may use a VAT credit shown in the annual VAT return to offset other Italian tax liabilities. Offsets higher than €10,000 are subject to special conditions. In addition, for offsets higher than €15,000, the VAT credit must be "certified." Currently, the offset may not exceed €516,457 a year.

**Frequent exporters.** The Italian VAT law provides that repayments are made within three months after the deadline for the claim. However, particularly for credit amounts higher than €516,457, long delays are often experienced. This delay may represent a severe cash flow problem for businesses involved in international trade because they are frequently in a VAT repayment position. To ease the situation, the Italian VAT law provides that “frequent exporters” may purchase, import and acquire goods and services without payment of VAT.

To qualify as a “frequent exporter,” export supplies must equal 10% of a taxable person’s annual turnover. VAT-free purchases are limited to the value of the taxable person’s export supplies either in the preceding calendar year or in the preceding 12 months (at the option of the taxable person). For these purposes, exports include exports of goods, zero-rated services and intra-Community supplies.

### **G. Recovery of VAT by nonestablished businesses**

Italy refunds VAT incurred by nonestablished businesses that are not registered for VAT in Italy. A nonestablished person may claim Italian VAT to the same extent as an Italian taxable person.

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

In accordance with the terms of the EU 13th Directive, refunds to non-EU businesses are made on the condition of “reciprocity,” which the Italian VAT authorities strictly impose. This means that VAT is refunded to businesses that are established in countries that make refunds of VAT or sales taxes to Italian businesses. Israel, Norway and Switzerland are included in this category. In practice, businesses from a large number of non-EU countries, including the United States, are excluded from receiving refunds. However, a business established in a country that is excluded from the EU 13th Directive refund scheme may be able to recover Italian input tax by registering for Italian VAT through a VAT representative before making a purchase.

The deadline to file a VAT refund claim is 30 September of the following year.

For the general VAT refund rules contained in the EU 8th Directive and the EU 13th Directive, see the chapter on the EU, page 208.

**Repayment interest.** Italian VAT law provides that payment of recoverable VAT must be made no later than six months after the date on which the application is filed. However, in practice, the refund procedure takes two or three years. Interest accrues at a rate of 2% (from 2010) per year, effective from the 180th day after the date on which the claim is filed for annual VAT refunds, and effective from the third month following the quarter of reference for quarterly VAT refunds.

### **H. Invoicing**

**VAT invoices and credit notes.** An Italian taxable person must generally provide a VAT invoice for all taxable and exempt supplies

made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. If an Italian taxable person that purchases goods or services from an Italian supplier does not receive a correct invoice by the end of the fourth month following the month when the acquisition occurred, it must regularize the purchase by disclosing it and paying VAT to the tax authorities by the end of the fifth month following the supply.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th Directive or EU 13th Directive refund schemes (see the chapter on the EU, page 208).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must reflect a genuine mistake or overcharge or an agreed reduction in the value of the original supply and must be issued only in the particular cases listed under Italian law. The document must be marked “credit note,” it must be numbered, and it must refer to the original VAT invoice.

**Exports and exempt supplies.** Invoices for exports, intra-Community supplies of goods and exempt supplies must indicate the article of Italian law that applies to the transaction, to support the fact that VAT has not been charged.

**Proof of exports and intra-Community supplies.** Italian VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence proving that the goods have left Italy. Acceptable proof includes the following documentation:

- For exports, copies of the export documents or invoices officially validated by customs or indicating the Movement Reference Number (MRN)
- For intra-Community supplies, a range of commercial documentation, such as the Convention on the Contract for the International Carriage of Goods by Road (Convention des Marchandises par Route, or CMR) waybills, airway bills, consignment notes or transport documentation

**Self-invoices for reverse charge supplies.** If an Italian established taxable person receives a supply of goods or services that is subject to the reverse charge in Italy, it must issue a self-invoice, showing all the details of an Italian tax invoice and the correct VAT due. The self-invoice must be recorded in both the purchases and sales ledgers of the taxable person.

**Intra-Community acquisitions.** To account for Italian VAT on an intra-EU acquisition, the Italian purchaser (VAT taxpayer) must “integrate” the foreign invoice. To “integrate” the invoice, the applicable Italian VAT rate and the corresponding Italian VAT must be written on the foreign invoice. The invoice must be entered into the taxable person’s purchases and sales ledgers. If the supplier does not issue an invoice for the transaction, the Italian acquirer of the goods must self-invoice by the end of the second month following the month in which the acquisition occurred. Invoices issued in a foreign currency must be converted to euros (€).

**Invoices issued in a foreign currency.** If an invoice is issued in a foreign currency, the VAT amount must be expressed in euros, using the official exchange rate (provided by the European Central Bank or the Bank of Italy, printed in financial newspapers or available from local banks). The conversion must be done using the rate for the date on which the transaction takes place or, if that rate is not available, the rate available for the preceding day that is closest to the transaction date.

## I. VAT returns and payment

**VAT payments.** Italian taxable persons calculate VAT payments on a monthly or quarterly basis, depending on turnover, and pay the VAT. No monthly or quarterly VAT returns must be submitted. VAT may be paid on a quarterly basis if the turnover realized during the previous year (or anticipated for the first year of activity) does not exceed €400,000 for supplies of services or €700,000 for supplies of goods. Interest at a rate of 1% must be added to quarterly VAT payments.

Monthly payments are due by the 16th day of the month following the month for which VAT is due.

Quarterly payments are due by the 16th day of the second month following the quarter for which VAT is due, except for the last quarter. The balance for the last quarter is due on 16 March of the following year if the taxpayer spontaneously opts for quarterly payments (that is, a taxpayer that has revenues under certain thresholds and that opts to calculate the VAT balance on a quarterly basis instead of a monthly basis).

An advance payment is due by 27 December of the current year. Different methods are available to calculate the advance payments (forecast, historical or transactions actually carried out).

**VAT returns.** All Italian taxable persons must submit an annual VAT return. The VAT return period is the calendar year. The return must be filed by the last day of September following the VAT year.

Italian taxable persons must also submit an annual summary of supplies made. The annual summary is due by the last day of February following the VAT year.

**Black list report.** All Italian taxable persons must submit a monthly report listing the transactions made with persons established or VAT registered in “black listed” countries. Black listed countries are the countries included in specific Italian decrees, such as Luxembourg, San Marino and Switzerland.

**Communication of declarations of intent.** Taxable persons receiving letters of intent from frequent exporters (see Section F) must submit to the tax authorities a monthly specific communication providing details of such letters of intent. The letter of intent is a declaration by which the frequent exporter communicates to the supplier or to the customs authorities that the frequent exporter qualifies as such and accordingly requests that VAT not be applied to the transaction at hand.

**Annual report.** Effective from 1 January 2011, Italian VAT taxpayers must file an annual report called “Communication of

Purchases and Sales of Goods and Services” (the Communication). The Communication lists supplies of goods and services that are relevant for Italian VAT purposes, for which the parties agreed to a consideration of €3,000 or more excluding VAT (€3,600 for supplies made to private individuals). The Communication must be submitted electronically by 30 April of the calendar year following the reporting year.

Imports, exports, and transactions with entities established in black listed countries (which are subject to a separate report to the tax authorities) are not included in the Communication.

The first Communication report relates to the year ended 31 December 2010. Some simplifications apply to this first-time filing. The consideration threshold is increased to €25,000 (instead of €3,000), and the deadline is postponed to 2 January 2012.

**Penalties.** If the annual VAT return is submitted more than 90 days after the deadline, the penalty is 120% to 240% of the VAT due, if any. The minimum penalty is €258.

The penalty for the late payment of VAT is equal to 30% of the VAT paid late. In addition, interest is accrued or charged at an annual rate of 1.5% in the case of voluntary settlement and 3.5% in the case of settlement of the tax audit report and in certain other circumstances.

If the annual VAT return is submitted with incorrect data, the penalty ranges from 100% to 200% of the VAT that is not correctly declared.

## J. EU declarations

**Intra-Community archive.** Effective from 1 January 2011, Italian VAT taxpayers that intend to make intra-Community acquisitions or sales of goods must be included in the “Archive of Entities Authorized to Perform Intra-Community Transactions” (the Archive). Otherwise, they may not perform such transactions.

An entity that registers for VAT when it begins a business activity in Italy must inform the Italian tax authorities in writing if it intends to perform intra-Community transactions. The tax authorities have 30 days to evaluate a request to be included in the Archive. At the expiration of this period, if the taxpayer does not receive a denial from the tax authorities, the entity is included in the Archive automatically. The Italian tax authorities may periodically carry out checks on the entities included in the Archive and may exclude an entity from the Archive at any time. However, an excluded taxpayer may appeal the decision.

**INTRASTAT.** Italian taxable persons that trade with other EU member states must complete fiscal and statistical reports, known as INTRASTAT. Separate reports apply to intra-Community acquisitions of goods and intra-Community acquisitions of services (INTRASTAT Arrivals) and intra-Community supplies of goods and intra-Community supplies of services (INTRASTAT Dispatches). INTRASTAT declarations must be filed in euros.

INTRASTAT reports may be monthly or quarterly, depending on the level of intra-Community trade. If in the previous four calendar quarters and for each type of transaction, transactions totaling less than €50,000 were carried out, the reports can be filed quarterly



by the 25th day of the month following the return period. In all other cases, the reports must be filed monthly by the 25th day of the month following the return period.

Statistical information is required from businesses that mainly file monthly reports. Columns regarding the statistical value, delivery conditions and transport conditions must be filed when the threshold of €20 billion is exceeded or in the case of a movement of goods without the transfer of property or similar rights.

*Penalties.* Mistaken or missing INTRASTAT returns are subject to a penalty ranging from €516 to €1,032. In addition, statistical penalties ranging from €516 to €5,165 apply.

**EU Sales Lists.** In Italy, all information related to intra-Community transactions is reported using the INTRASTAT form. No separate EU Sales List is used.

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## Japan

(Country code 81)

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## A. At a glance

Name of the tax	Consumption tax
Local name	Shouhizei
Date introduced	1 April 1989
European Union (EU) member state	No
Administered by	National Tax Agency Japan ( <a href="http://www.nta.go.jp">http://www.nta.go.jp</a> )
Consumption tax rates	
Standard	5%
Other	Exempt (with input tax credit) and nontaxable (without input tax credit)
Consumption tax return periods	Monthly, quarterly, biannually and annually
Thresholds	
Registration	¥10 million of taxable transactions

Recovery of consumption  
tax by nonestablished  
businesses Yes

## B. Scope of the tax

Consumption tax applies to the following transactions:

- The supply of goods or services made in Japan by a taxable person
- The importation of goods into Japan

## C. Who is liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in Japan.

Under the “small business” exception, enterprises with taxable supplies not exceeding ¥10 million in a “base period” are exempt from consumption tax for business years beginning on or before 31 December 2012. The base period for each consumption tax reporting year is the individual enterprise’s business year that was two years prior to the current business year.

For business years beginning on or after 1 January 2013, a business entity or individual whose taxable supplies in the calculation period are over ¥10 million will be a taxable person even if the taxable supplies in the “base period” are ¥10 million or less. For business enterprises, if the preceding business year was longer than seven months, the calculation period is the first six months of the preceding business year. If the preceding business year was seven months or less, the calculation period is the first six months of the year before the preceding business year.

Instead of the amount of taxable supplies, the amount of salary payments can be used in determining whether the enterprise is taxable. For individuals, the calculation period is from 1 January to 30 June of the preceding year.

A newly formed corporation with capital of ¥10 million or more is not eligible for the small business exemption from consumption tax for its first two fiscal years.

If a newly formed corporation purchases certain assets during its first two fiscal years, the corporation may not be eligible for exemption for the subsequent two fiscal years.

**Voluntary registration.** A small business with taxable turnover of ¥10 million or less in its base period may voluntarily apply to become a taxable person.

**Group registration.** The consumption tax law does not allow closely related companies to register as a group.

**Nonestablished businesses and tax representatives.** A “non-established business” is a business that does not have a fixed establishment in Japan. A foreign or nonestablished business must register for consumption tax if it makes taxable supplies in Japan. If a foreign business is required to become a taxable person, it must appoint a resident tax representative to deal with its consumption tax obligations.

No reverse-charge mechanism applies in Japan to supplies made by nonestablished businesses.

## D. Consumption tax rates

The term “taxable supplies” refers to supplies of goods and services that are liable to consumption tax. Consumption tax is charged at a flat rate of 5%. No reduced rates apply.

The term “exempt supplies” refers to supplies of goods and services that are not taxed, but the taxpayer may deduct any related input tax. Exempt supplies include exports of goods or services and international travel, transportation and communication services.

Nontaxable supplies (with no right to input tax deduction) include insurance, real estate, foreign-exchange transactions and education (see Section F).

## E. Time of supply

The time when consumption tax becomes due is called the “time of supply” or “tax point.” Consumption tax is generally chargeable when ownership of goods is transferred or when a service is performed.

## F. Recovery of consumption tax by taxable persons

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

Input tax includes consumption tax charged on goods and services supplied in Japan and consumption tax paid on imports of goods.

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

For tax periods beginning on or before 31 March 2012, a taxable person may deduct input tax in full unless its nontaxable supplies exceed 5% of total supplies made (95% rule). However, for tax periods beginning on or after 1 April 2012, the “95% rule” will apply only to a business with taxable supplies for the period of ¥500 million or less (annualized for a business with a taxable period of less than one year). Consequently, the partial exemption (see *Partial exemption*) will be applied to a business if it has over ¥500 million of taxable supplies regardless of its taxable supplies ratio.

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

The following tables set out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Nonbusiness expenditure

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

Purchase, lease, hire, maintenance and fuel for cars, vans and trucks  
 Attending conferences and seminars  
 Advertising  
 Accommodation  
 Mobile phones  
 Business gifts  
 Travel expenses  
 Business entertainment

**Partial exemption.** For tax periods beginning on or before 31 March 2012, if a taxable person's turnover from taxable supplies (including exports) is less than 95% of its total turnover, it may not recover input tax in full. This situation is referred to as partial exemption. For tax periods beginning on or after 1 April 2012, the partial exemption will be applied to a business if it has over ¥500 million of taxable supplies regardless of its taxable supplies ratio. The amount of input tax that the taxable person may deduct may be calculated using either of the following methods:

- General pro rata method: the taxable person's taxable ratio (which is based on the ratio of the value of taxable supplies made compared to total supplies made) is applied to the total amount of input tax incurred.
- Direct attribution method: the taxable person's input tax is allocated to taxable and nontaxable supplies made. Input tax directly related to taxable supplies is deductible in full, while input tax directly related to nontaxable supplies is not deductible. The general pro rata method is used with respect to the remaining input tax that is not directly related to taxable or nontaxable supplies.

A business with annual sales of ¥50 million or less may use a simplified formula to calculate consumption tax payable. Under this system, the taxpayer calculates the credit for consumption tax paid by multiplying the consumption tax on sales by a deemed purchase ratio. This ratio ranges from 50% to 90%, depending on the type of sales made. A taxpayer that elects to use the simplified accounting formula must use this formula for a minimum period of two years.

### **G. Recovery of consumption tax by nonestablished businesses**

Japan refunds consumption tax incurred by businesses that are not established in Japan. To obtain a refund, a nonestablished business must appoint a resident tax representative and elect to be treated as a taxable business.

### **H. Invoicing**

**Tax invoices and credit notes.** The Japanese consumption tax law does not explicitly require that a taxable person provide a tax invoice for taxable supplies made to other taxable persons (or a credit note for adjustments).

**Proof of exports.** Japanese consumption tax is not chargeable on supplies of exported goods. To qualify as exempt from consumption tax, an export supply must be accompanied by official customs evidence stating that the goods have left Japan.

**Foreign-currency invoices.** If a tax invoice is issued in a foreign currency, the values for consumption tax purposes may be converted to Japanese yen (¥) based on the official bank rate on the date of the transaction.

## I. Consumption tax returns and payment

**Annual consumption tax returns.** Taxable persons must file consumption tax returns annually. An individual entrepreneur must file his or her consumption tax return and pay the tax due by 31 March in the year following the end of the calendar year. A corporation must file its annual consumption tax return and pay the tax due within two months after its fiscal year-end.

**Interim consumption tax returns.** Depending on the previous year's tax liability, a taxable person may be required to file interim consumption tax returns and pay tax during the year.

An interim tax return is required for the first six months of the tax year if the estimated tax due exceeds ¥600,000, based on the preceding year's tax payments. Interim payments are required in May, August and November (for a fiscal year ending in December) if the estimated tax due for the year exceeds ¥5 million. In addition, if the estimated tax due for the year exceeds ¥60 million, interim payments are required monthly.

**Penalties.** Interest is applied to late payments of consumption tax. The interest rate is revised annually. For 2011, the interest rate is 4.3%.

A penalty is charged in the following amounts if the annual consumption tax return is not filed by the due date:

- 5% if the taxable person makes a voluntary disclosure
- 15% or 20% (of the excess portion of additional tax over ¥500,000 for tax returns) if an error is found as a result of a tax audit
- 40% if fraud or tax evasion is involved

A penalty is charged in the following amounts if the amount of tax declared in the annual consumption tax return is understated:

- 0% if the taxable person makes a voluntary disclosure
- 10% or 15% (of the excess portion of additional tax over ¥500,000 or the original amount, whichever is greater) if the error is found as a result of a tax audit
- 35% if fraud or tax evasion is involved

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## Jersey, Channel Islands

(Country code 44)

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**A. At a glance**

Name of the tax	Goods and services tax (GST)
Date introduced	6 May 2008
European Union (EU) member state	No (but is part of the EU for customs by agreement with the United Kingdom)
Administered by	Comptroller of Taxes ( <a href="http://www.gov.je/taxesmoney">http://www.gov.je/taxesmoney</a> )
GST rates	
Standard	5%
Other	Zero-rated and exempt Flat rate International Services Entity (ISE) fee (predominantly financial services entities)
GST return periods	Quarterly Monthly (other periods on request)
GST registration number format	1234567
Thresholds	
Registration	£300,000
Recovery of GST by nonestablished businesses	Yes (subject to conditions)

**B. Scope of the tax**

GST applies to the following transactions:

- The supply of goods or services made in Jersey by a registered person
- The importation of goods into Jersey, regardless of the status of the importer

Businesses (predominantly in the financial services sector) may be exempted from GST accounting if they obtain approval for International Services Entity (ISE) status (see Section D).

**C. Who is liable**

A “registered person” is a business entity, including a branch or agency, or individual who makes taxable supplies of goods or services in the course of doing business in Jersey.

The GST registration threshold is £300,000.

The registration threshold is met if either of the following circumstances exists:

- At the end of any month, the business made taxable supplies in the preceding 12 months.

- If, on any day, reasonable grounds exist for believing that the value of the taxable supplies made by the business in the 12 months after that date will exceed £300,000.

GST may be recovered before the incorporation of a company if certain criteria are met.

**Voluntary registration.** A small business with taxable turnover of less than £300,000 a year may voluntarily apply to become a registered person.

**Group registration.** Group registration is allowed for corporations or other taxable persons that are under common control. One entity must be the representative member.

Transactions between group members are disregarded for GST purposes.

**Deregistration.** A taxable person that ceases to make taxable supplies must notify the Jersey GST authorities within 30 days after ceasing operations. If the GST authorities are satisfied that the taxable person's operations are not expected to recommence, they will cancel its GST registration.

A taxable person may deregister voluntarily if it can satisfactorily prove to the GST authorities that its taxable turnover for the foreseeable future is expected to be less than £300,000.

**Reverse charge.** The reverse-charge regime applies to services specified by the law if the following conditions are satisfied:

- A supply of services is made by a nonresident to a resident.
- The supply would be taxable if made in Jersey.
- The recipient of the supply is registered (or is required to be registered).

An input tax credit may be claimed with respect to the reverse charge to the extent that the service was acquired for the purpose of making taxable supplies.

**Late-registration penalties.** Penalties are assessed for a range of GST offenses, including late registration.

## D. GST rates

The term "taxable supplies" refers to supplies of goods and services that are liable to GST. The standard rate of GST is 5%. Some supplies are zero-rated (taxed at 0%), but no other reduced rates apply.

In addition, some activities are exempt from GST. For exempt activities, no GST is charged, but the supplier does not have the right to deduct any related input tax.

The following tables list examples of goods and services that are zero-rated or exempt from GST (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

Financial services

Insurance

Postal services

Medical and paramedical supplies

Charities

Education

**Examples of goods and services taxable at 0%**

Supplies of dwellings  
 Prescription medicines  
 Exported services and related services  
 Services performed outside Jersey

At the time of writing, Jersey was undertaking a fiscal strategy review.

**International Services Entities.** Certain entities (predominantly financial services entities) may opt out of the GST system by becoming an International Services Entity (ISE). If the entity obtains approval for ISE status, it pays an annual fixed fee. Trust companies can also be authorized to maintain a list of administered entities that are ISEs. Under the ISE regime, businesses are not required to account for GST on their supplies and are entitled to end-user relief under which they are not charged GST by GST-registered businesses.

If a business uses a retail scheme, GST may be charged on supplies of less than £1,000, but the GST may be refunded on application.

**E. Time of supply**

The time when GST becomes due is called the “time of supply.” The general rule is that a supply of goods takes place when the goods are removed or made available and that a supply of services takes place when the service is performed. However, if an invoice is issued or payment is received by the supplier, an earlier date applies.

**F. Recovery of GST by taxable persons**

A taxable person may recover input tax, which is GST charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is GST charged on supplies made. Input tax includes GST charged on goods and services supplied in Jersey and GST paid on imports.

An input tax claim must be supported by valid tax invoices.

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

A registered person may recover GST in full if it acquires goods and services principally for the purpose of making taxable supplies. GST is not recoverable for goods and services that are acquired for nonbusiness purposes or for making exempt supplies.

**Partial exemption.** The GST law provides for the partial exemption method if goods and services are acquired for making taxable supplies but are also used for making exempt supplies. One of the following methods of allocation may be used for making the input tax adjustment:

- A general pro rata method under which the taxable person’s taxable ratio is based on the value of taxable supplies made compared with total supplies made. The taxable ratio is applied to the total amount of input tax incurred.



- A direct attribution method under which the taxable person's input tax is allocated to taxable and nontaxable supplies made. Input tax directly related to taxable supplies is deductible in full, while input tax directly related to nontaxable supplies is not deductible. The general pro rata method is used with respect to the remaining input tax that is not directly related to taxable or nontaxable supplies.
- A special calculation method agreed on with the Jersey GST authorities.

Capital purchases in excess of £1 million must be considered over a five-year period.

**Refunds.** If the amount of input GST recoverable in a period exceeds the amount of output GST payable, a refund may be claimed. GST refunds are generally made promptly after the receipt of a correct return or held as a credit against future returns unless otherwise requested.

### **G. Recovery of GST by nonestablished businesses**

Entities that are registered for GST and that make taxable supplies in Jersey may recover GST incurred on goods and services that they acquire.

Effective from 1 January 2010, refunds are made to persons not established in Jersey with respect to GST on goods and services for business use. The supply on which the GST arose must have been for the purpose of a business carried on by the claimant. The claimant's home country must operate a similar refund scheme that is available to Jersey businesses.

Refunds are made by way of a claim in writing to the following:

Comptroller of Taxes  
P.O. Box 56  
Cyril Le Marquand House  
The Parade  
St. Helier  
Jersey JE4 8PF

Jersey has not set a maximum amount that can be reclaimed. However, it has set a minimum reclaim amount of £50. Claims must be made within 12 months after the date of supply and must be made annually.

Claims must be accompanied by originals of all invoices, vouchers or receipts from suppliers. For amounts below £250, simplified invoices can be provided. Initial claims must also be accompanied by an official certificate showing that the claimant is registered for GST (or similar tax) in its home jurisdiction. A certificate must be provided annually thereafter.

### **H. Invoicing**

A Jersey registered person must generally provide a tax invoice for all taxable supplies. A credit note may be used to reduce the GST charged and reclaimed on a supply if the value originally charged was incorrect. A credit note must indicate the reason why it was issued and must refer to both the GST originally charged and the corrected amount.

## I. GST returns and payment

GST returns are generally submitted quarterly. Three cycles of quarterly returns are provided to stagger submission dates. A taxable person may request a change in its GST return cycle to ease administration.

Taxable persons may opt to submit GST returns monthly if they receive regular repayments of GST.

GST return periods generally end on the last day of a month. However, taxable persons may request different periods to align with their accounting records. GST returns must be submitted, together with payment of any GST due, by the last business day of the month following the end of the return period. The GST return form indicates the due date for each return.

**Penalties.** A penalty is assessed for the late payment of GST. A penalty of 2.5% of the tax due is assessed on the day after the due date.

A fixed penalty of £500 is imposed for the late submission of a GST return. Penalties can be mitigated.

A range of GST offenses are subject to fines and imprisonment, depending on the offense committed.

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## Jordan

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## A. At a glance

Name of the tax	General Sales Tax (GST) (the GST Law provides for two types of taxes, which are the General Tax [GT] and the Special Tax [ST]; see Section B)
Local name	Addaryba al a'mma ala al mabia't
Date introduced	June 1994
Administered by	Income and Sales Tax Department (ISTD) ( <a href="http://www.istd.gov.jo">http://www.istd.gov.jo</a> )

GST rates	
GT rates	
Standard	16%
Reduced	4%
Other	Zero-rated and exempt
ST rates	Various (five types of goods and one type of service are subject to percentage rates or fixed amounts set forth in Regulation No. 80 of 2000)
GST number format	9999999
GT return periods	Two months
ST return periods	Monthly
Annual thresholds	
Goods	JD 50,000
Services	JD 30,000
Imports of goods or services for nonpersonal purposes	None
Recovery of GST by nonresident businesses	No

## B. Scope of the tax

General Sales Tax (GST) applies to the following transactions:

- The supply of taxable goods or services made by a taxable person
- The importation of taxable goods or services

The GST Law contains two types of taxes, which are the General Tax (GT) and the Special Tax (ST). ST is part of the tax base for GT if ST applies.

## C. Who is liable

A “taxable person” is any entity or individual that is registered or required to be registered for GST. A taxable person is required to register by the earlier of the following dates:

- On the commencement of a new business that makes taxable supplies if it appears to the person that the person’s taxable turnover during the twelve months following the commencement date may exceed the threshold
- At the end of any month if taxable turnover during the preceding 12 consecutive months has reached the threshold
- At the end of any month if it appears that the person’s taxable turnover during the 12 consecutive months ending with the subsequent month may reach the threshold

The following are the annual thresholds for GST registration:

- JD 10,000 for manufacturers producing goods subject to ST
- JD 50,000 for suppliers of goods other than those subject to ST
- JD 30,000 for service suppliers

If a person carries out more than one of the business activities mentioned above, the minimum limit is the applicable registration threshold.

A person who imports taxable goods or services must register within 30 days of the first taxable import, regardless of the amount of the import, unless the import is made for private purposes.

**Voluntary registration.** A business may register for GST voluntarily if its taxable turnover is below the GST registration threshold. A business may also register for GST voluntarily in advance of making taxable supplies.

**Deregistration.** A registered person who stops supplying goods and services must deregister.

A registered person may also request deregistration if its taxable turnover drops below the registration threshold or if its entire turnover is zero-rated. However, deregistration is not compulsory in these circumstances.

**Exemption from registration.** A taxable person whose entire turnover is zero-rated may request exemption from registration.

**Retroactive registration.** If a taxable person fails to register by the dates prescribed under the GST Law, the Income and Sales Tax Department (ISTD) may agree on request to register the person, effective from the date on which the person was required to register.

**Group registration.** GST grouping is not allowed. Legal entities that are closely connected must register for GST separately.

**Late-registration penalties.** The following penalties are assessed for late registration:

- A penalty of two to three times the output tax plus a criminal penalty equal to JD 200 is imposed if the date of registration is more than 60 days from the date on which the business should have been registered.
- A penalty of JD 100 is imposed if the date of registration is less than 60 days from the date on which the business should have been registered.

## D. GST rates

“Taxable goods and services” are goods and services that are liable to a rate of GST, including the zero rate. The term “exempted goods” refers to supplies of goods and services that are not liable to GST and do not give rise to a right of input tax deduction.

Exempted goods are goods and services listed in Schedule 3 annexed to the GST Law and other goods and services exempted under the provisions of the GST Law. In addition, supplies to a person whose purchases are exempted are treated as exempted supplies even if these supplies are normally taxable. Other goods and services are called “nontaxable goods,” which are goods and services that are not within the scope of GST.

In Jordan, the following are three rates of GT:

- Standard rate: 16%
- Reduced rate: 4%
- Zero rate (0%)

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

Five types of goods and one type of service are subject to ST. ST is imposed at various percentage rates and in fixed amounts. These rates and amounts are provided in Regulation 80 of 2000.

Some goods and services liable to GT rates could also be liable to ST rates at the same time. These goods and services are defined under Schedule 1 annexed to the GST Law.

The following tables list examples of goods and services exempt from GT, taxed at a zero rate or taxed at a 4% rate, and examples of goods and services subject to ST (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Wheat  
Bread  
Olive oil  
Plastic floor coverings  
Electrical energy  
Firefighting vehicles  
Education  
Medical services

**Examples of goods and services taxable at 0%**

Books, newspapers and periodicals  
Supplies used by the handicapped  
Inputs for drug manufacturing, industrial machinery and equipment exempted under the Customs Tariff Tables and used to manufacture drugs, laboratory devices and their accessories needed by the drug industry and spare parts, regardless of whether local or imported

**Examples of goods and services taxable at 4%**

Live animals  
Dairy produce, birds' eggs and natural honey  
Green or black tea  
Tomato paste  
Natural phosphates  
Potash  
Fertilizer

**Examples of goods and services subject to ST**

All types of cement  
Beer (including nonalcoholic beer)  
Tobacco and tobacco products  
Vehicles (cars)  
Mobile phones and radio subscription service

**E. Time of supply**

GST becomes due at the time of supply, which is called the "tax point." The rules determining the tax point are discussed below.

GT or ST becomes due on the supply of goods at the earliest of the following events:

- Delivery of goods. However, the Director General of the Income and Sales Tax Department may consider the date of the tax invoice as the tax point if it is issued periodically or at the end of a certain period following the date of delivery.
- Issuance of a tax invoice.
- Receipt of the full or partial value of the goods, receipt of credit payment or any other receipt of value according to the agreed terms for payments.

Tax becomes due on the supply of services at the earlier of the following events:

- Issuance of a tax invoice
- Receipt of full or partial payment for the service

Tax is payable in the cases mentioned above by reference to the value covered by the invoice or the amount paid, whichever is higher.

**Imported goods.** Importers of goods must pay the tax due on the goods at the clearance stage to the Customs Department in accordance with the procedures applicable for the payment of customs duties. Clearance of these goods is not finalized until the tax due is paid in full.

**Imported services.** Importers of services must pay the tax due at the earliest of the following dates:

- Within one month after the date of payment for the imported service or after the date of making a partial payment, limited to the amount paid
- When the means that include the services (for example, compact disks and tapes) are released from Customs
- Within six months after the date on which the service or any part of the service is received, limited to the amount related to the part received

**Postponed tax payment on imports.** A registered importer may obtain permission from the ISTD to defer the payment of the tax payable on the importation of goods and services. This postponement is granted if the importer has no record of fraud or customs smuggling and has submitted all returns in the last 12 months.

## **F. Recovery of GST by taxable persons**

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

Input tax includes GT charged on goods and services supplied in Jordan and GT paid on imported goods and services into Jordan.

ST is also charged on goods supplied to produce goods subject to ST.

A valid tax invoice or customs documents must exist to recover input tax.

Special rules apply to the recovery of input GT on goods purchased or imported before registration.

**Recovery of input GT on goods purchased or imported before registration.** A newly registered person can recover GT paid or charged before registration on the goods at hand at the time it registers for GST. If the invoice for the purchases is not a tax invoice, half of the value of the invoice is multiplied by the GT rate to calculate the deductible tax. Only the tax paid or charged on goods at hand is deductible.

**Nondeductible input tax.** Input tax may not be deductible on purchases or imports of goods and services that are not used for business purposes. In addition, input tax may not be recovered for some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is used for a taxable business purpose (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Goods and services used for nonbusiness purposes

Sporting and recreational activities

Restaurant and hotel services

Purchases accounted for as returned purchases

Goods and services that have been used for construction purposes, other than those used for the renting of construction and destruction equipment

Cars

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

Business use of telephone and mobiles

Business use of rental cars

Accounting and tax consulting fees

Cars purchased by car-trading businesses or for car rental purposes

**Partial exemption.** Input tax directly related to making exempt supplies is not recoverable. If a taxable person makes both exempt and taxable goods and services, it may recover input tax partially.

If the same taxable inputs are attributable to both taxable and nontaxable supplies (whether exempted or for nonbusiness use), the portion of the deductible general input tax is determined based on the production formula. If this is not possible, it is calculated based on the proportion of taxable supplies to total supplies.

Apart from the deduction of GT paid or charged on goods at hand at the time of registration, a registered person may not deduct the input tax paid more than three years earlier. However, a registered person that carries out a nontaxable business and that has already deducted tax paid on inputs relating to this business must prepare a debit note with respect to the already deducted tax on its purchases of taxable goods and services that were incorporated in nontaxable business supplies. The registered person must also undertake to calculate the tax based on the production formula and pay the tax shown in the tax return for its fiscal year. However, if calculation of tax based on the production formula is not possible, the tax is calculated based on the proportion of the nontaxable supplies to the total supplies.

**Refunds.** Tax is repaid within a period not exceeding three months after the date on which the claim for refund has been filed if any of the following circumstances exist:

- Tax is paid on goods or services exported or used in the manufacture of other goods that have been exported.
- Tax is collected by mistake.
- Recoverable input tax that was paid at least six months ago and that was carried forward as a credit has not yet been deducted from the tax charged on supplies made during that period.
- Tax was paid on goods that left the country in the possession of nonresident persons, and the tax amount to be refunded be not less than JD 50 but not more than JD 500.

- ST was previously paid on goods supplied to the bodies relieved from payment of tax under Article 21 of the GST Law (the King of Jordan, embassies, diplomats and consuls [subject to reciprocity] and international and regional organizations working in Jordan).

## G. Invoicing

A registered person who supplies taxable goods or services to another registered person is required to make out a triplicate tax invoice containing the following details:

- The serial number and date of issuance of the tax invoice
- Name, address and tax number of the registered person
- Name, address and tax number of the purchaser
- A statement regarding the supplied item that provides the type, quantity, value, and rate and amount of the tax, together with a statement of the total amount of the invoice

The original invoice must be provided to the purchaser, and the copies must be maintained by the registered person.

If taxable goods or services are supplied by a registered person to a person that is not registered for GST, the person must issue an ordinary invoice. However, the taxable person may issue a tax-inclusive invoice showing the quantity and the tax-inclusive price of the goods or services supplied. This invoice must contain the following details:

- The serial number and date of the invoice
- Name, address and tax number of the registered person
- A statement regarding the supplied item that provides the type, quantity and value, together with a statement of the total amount of the invoice

The original invoice must be provided to the purchaser and the copies must be maintained by the registered person.

If a tax point results from a delivery of goods or services, or receipt of payment, the registered person must issue a tax invoice within the following time limits:

- Immediately after the delivery of goods or the receipt of payment if the supplier does not keep delivery notes or inventory cards.
- Within a maximum period of one month after the date on which the services are performed, or immediately on the receipt of payment.
- By the end of the day if the supplier keeps delivery notes and inventory cards.
- Immediately after the delivery of goods or services, or the receipt of payment if the supplier keeps a cash register machine. In this case, the cash register roll is considered an invoice.

**Exports.** To export goods outside Jordan and to the duty-free estates, zones and shops, the following conditions must be met:

- A customs declaration of the goods to be exported must be prepared with a minimum of three copies of the invoice attached to it.
- The Customs Center must check the contents of the invoice against the relevant customs declaration, certify the copy of the invoice, and affix the number and date of the declaration on the invoice, which is stamped by the Customs Center.



- The exporter must retain a copy of the invoice referred to in the bullet above together with a copy of the customs declaration produced and endorsed pursuant to the customs proceedings for the purposes of future audit.

If the exporter is not registered, in addition to the procedures described above, the procedures mentioned in Instruction No. 4 concerning the deduction or refund of the tax must also be followed. Under Instruction No. 4, a nonregistered refund applicant must enclose the following documents together with the refund application:

- A completed refund form numbered 6/B, approved by the Income and Sales Tax Department (ISTD) and submitted by the concerned person or a legally authorized person.
- A copy of the supplier's tax return signed and certified by the ISTD, which contains the relevant invoice numbers for the amounts claimed. This must be attached later by the concerned directorate in the ISTD.
- The original of the tax invoice for local goods and services. However, if acceptable reasons prevent the issuance of an authenticated invoice and if the applicant undertakes that the applicant has never claimed and will never claim the tax in question when the original copy is found, the Director General of the ISTD may accept a certified copy of the invoice.
- A copy of the import declaration in the name of the exporter (the first copy), if the original declaration is requested from the customs department together with all the relevant attachments.
- A copy of the export invoice of which the number is fixed on the import declaration.
- A production formula approved by the customs department or the General Sales Tax Department concerning the materials incorporated in the production of exported goods.

The above procedures must be followed to export goods to Aqaba Special Economic Zone (SEZ) if the cost of the exported goods exceeds JD 10,000, regardless of whether the exporter is registered for GST. However, if the cost of the goods to be exported to the Aqaba SEZ is JD 10,000 or less, the following procedures must be followed:

- The exporter must produce a detailed invoice showing the cost and quantity of every exported item.
- The Customs Center must check and inspect the goods to be exported against the contents of the invoice and ascertain their exit of the goods to the zone. A customs employee then signifies the approval of the export invoices by affixing on the invoices the phrase "seen upon exiting."

All goods leaving Jordan in the possession of the passengers, or those shipped abroad with a value not exceeding JD 500, may be exported without the need to produce a customs declaration if the exportation is substantiated in a manner satisfactory to the department. If the value of the goods does not exceed JD 1,000, the goods may be exported through the Jordan Export Development Commercial Corporation or via express mail, or it may be exported to the free zones, without the need to produce a customs declaration. In such a case it is sufficient to prepare a triplicate invoice or a bill of lading, stamped by the customs officer to substantiate the exportation. However, if the exported

goods are valued at more than JD 1,000, the export must be made using the relevant transfer statement certified for this purpose.

To export services outside Jordan, the following conditions must be met:

- The beneficiary of the service must be a foreigner or a Jordanian who is not resident in Jordan.
- The place where the service is received must be outside Jordan.
- The service supplier must produce a contract substantiating the exportation of the service.
- The exporter must prove that the payment for the service has been transferred to Jordan.

To export services to the Aqaba SEZ, the following conditions must be met:

- The importer of the service must be a corporation registered in the Aqaba SEZ.
- The supplier must produce a service supply contract signed by both parties, which are the supplier and the purchaser located in the Aqaba SEZ.
- The supplier must produce an invoice showing the type and nature of the service supplied, as well as the name of the purchaser of this service.

To export services to the free estates, zones and duty-free shops, the following conditions must be met:

- The service must be provided to a person who is licensed to practice a business activity within the free estates, zones and duty-free shops.
- The service must be intended for the sole purpose of exercising this activity.
- The supplier must produce a service supply contract signed by both parties, which are the supplier and the purchaser of the exported service.
- The supplier must produce an invoice showing the type and nature of the service supplied, as well as the name of the purchaser of this service.

**Foreign-currency invoices.** If the supply of taxable goods or services is for a consideration determined in a foreign currency, the value must be converted into Jordanian dinars (JD), according to the exchange rate at the time of supply.

## H. GST returns and payments

A tax return, either completed in writing (manually) or filed electronically, must be submitted by the registered person using Forms Nos. 4 and 5 prepared by the ISTD for this purpose. A registered person must submit the required return within one month following the end of its tax period, as prescribed in the registration letter issued by the ISTD.

If a registered person realizes that it has made an error in a GST return that has already been submitted, it may amend the return through a written notice submitted to the ISTD. In this case, the registered person is not considered to have breached the provisions of the GST Law unless the ISTD discovered the error before the registered person declared it. However, the registered person must pay the underdeclared amount of tax, together with the late payment penalty imposed for that error, calculated for every week or any part thereof.

If a tax return adopted by the ISTD is submitted to a bank, it is deemed to be a tax return submitted to the ISTD.

If the tax return is submitted in a manner that violates the provisions of the GST Law, the return is considered to be cancelled and the registered person is liable for the penalties provided for under the GST Law.

If the registered person submits more than one return for the same period, the ISTD accepts only the return submitted first. The other returns are considered cancelled except for any amendment notices submitted afterwards.

**Penalties.** Apart from the criminal tax offenses provided for in the GST Law, a penalty not less than JD 100 and not more than JD 500 is levied on misdemeanors committed in connection with the GST Law.

A person who commits a criminal tax fraud offense is liable for a civil compensation penalty payable to the ISTD of not less than twice and not more than three times the tax due, and a criminal penalty of not less than JD 200 and not more than JD 1,000. For a second offense, the criminal penalty imposed is doubled. If the offense occurs again within one year thereafter, the court may impose the highest criminal fine or a term of imprisonment for a period not less than three months and not exceeding six months, or both.

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## Kazakhstan

(Country code 7)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Nalog na dobavlennuyu stoimost (NDS) Kosylgan kun salygy (KKS)
Date introduced	24 December 1991

European Union (EU) member state	No
Administered by	Ministry of Finance of the Republic of Kazakhstan ( <a href="http://www.minfin.kz">http://www.minfin.kz</a> ) Tax Committee of the Ministry of Finance of the Republic of Kazakhstan ( <a href="http://www.salyk.kz">http://www.salyk.kz</a> )
VAT rates	
Standard	12%
Other	Zero-rated and exempt
VAT number format	Number of certificate of registration for VAT (series with five digits and number of VAT registration certificate with seven digits)
VAT return periods	
General period	Quarterly
Imports of goods from other Customs Union member countries (Belarus and Russian Federation)	Monthly
Thresholds	
Registration	Annual turnover of 30,000 times the minimum calculated index (MCI); the threshold is approximately US\$307,000 for 2011; the MCI is established by the state budget law for each year; for 2011, the MCI is KZT 1,512 (approximately US\$10.21)

## B. Scope of the tax

VAT applies to the following transactions:

- Supplies of goods, work and services in Kazakhstan
- Imports of goods

For VAT purposes, taxable turnover is the total of practically all types of supplies (for example, sales, exchanges or gifts) of goods, work and services. Goods include practically all forms of property or property rights. Taxable supplies of services are any supplies of work or services that are made for consideration or made free of charge or anything that is performed for consideration and is not a supply of goods.

Goods and services are subject to VAT if, under the place of supply rules, they are deemed to be supplied in Kazakhstan.

Under the tax law of Kazakhstan, the place of supply of goods is deemed to be the following:

- Goods sent by the supplier, the recipient or a third party: the place where the transportation of the goods begins
- For all other cases: the place where the goods are handed over to the purchaser

The place of supply of work and services is determined based on the nature of the executed transactions. Work and services

connected with immovable property (for example, buildings and installations) are deemed to be supplied in Kazakhstan if such property is located in Kazakhstan. The place of supply of certain services that are provided outside Kazakhstan is deemed to be Kazakhstan. Such services include, but are not limited to, the following:

- The transfer of rights to use items of intellectual property
- Consulting
- Audit
- Advertising and marketing services
- Staff provision
- The leasing of movable property (other than means of transport)
- Agency services connected with the purchase of goods, work and services
- Consent to limit or terminate entrepreneurial activities for consideration
- Communication services
- Radio and television services
- Tourism organization services

### C. Who is liable

Taxpayers are legal entities that are registered for VAT purposes and importers of goods into Kazakhstan.

**Tax registration.** Legal entities must register for VAT on exceeding the VAT registration threshold or they can voluntarily register at their discretion. VAT registration is mandatory if turnover during the calendar year exceeds 30,000 times the minimum calculated index (MCI). The threshold is approximately US\$307,000 for 2011. The MCI is established by the state budget law for each year. For 2011, the MCI is KZT 1,512 (approximately US\$10.21).

VAT registration is separate from tax registration. The deadline for VAT registration is within 10 business days after the end of the month in which the turnover threshold is exceeded.

**Reverse charge.** If a nonresident that is not registered for VAT purposes in Kazakhstan renders services for which the place of supply is Kazakhstan to a Kazakhstan purchaser and if the purchaser is a VAT payer, the purchaser must self-assess and pay VAT to the budget through a reverse-charge mechanism. A Kazakhstan purchaser of the services is allowed to offset the amount of the reverse-charge VAT paid, subject to the general offset procedure.

**Late-registration penalty.** The law of Kazakhstan imposes a penalty of up to 30% of turnover for the period of nonregistration.

### D. VAT rates

The term “taxable supplies” refers to supplies of goods, work and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods, work and services not liable to tax and that do not give rise to a right to input tax deduction.

The following are the VAT rates in Kazakhstan:

- Standard rate: 12%
- Zero rate (0%)

The standard rate of VAT applies to all supplies of goods, work and services except for supplies taxable at the zero rate and those exempt from VAT.

For imports of goods by individuals under the simplified procedure, VAT may be paid as part of the aggregate customs payment, the amount of which is determined in accordance with the customs law of Kazakhstan.

The following tables list examples of goods and services that are zero-rated and those that are exempt (these lists are not exhaustive).

#### **Examples of goods and services taxable at 0%**

Export sales of goods

International transportation services

#### **Examples of exempt supplies of goods and services**

Turnover associated with land and residential buildings

Specified financial services

Transfers of assets under finance leases

Services rendered by noncommercial organizations

Services in the areas of culture, science and education

Goods and services with respect to medical and veterinary activities

Import of certain assets (a list is issued by the government)

### **E. Time of supply (the date of completion of a sale)**

The date of completion of a transaction involving the sale of goods, work or services is the date on which the goods are shipped (transferred), work is performed or services are rendered. The date of the performance of work or the rendering of services is the date of signing of an act of acceptance for work performed or services rendered.

For goods that are not shipped, the date of completion of a sale is the date on which ownership of the goods is transferred to the purchaser.

### **F. Recovery of VAT by taxpayers**

**VAT calculation and VAT offset carryforward.** The VAT liability of a taxpayer equals output VAT (VAT charged by a taxpayer) less input VAT (VAT paid by a taxpayer to its suppliers) in a reporting period.

VAT paid on services and goods purchased by a VAT payer (input VAT) including reverse-charge VAT paid and VAT paid at customs is generally available for offset (credit) in determining a taxpayer's VAT liability to the budget. However, offset is not available for VAT incurred for the purpose of making supplies that are either exempt or deemed to be supplied outside Kazakhstan.

The excess of input VAT over output VAT may generally be carried forward for offset against future VAT liabilities.

**Nonrecoverable input VAT.** Input VAT is not allowed for offset if it is paid in connection with the following transactions:

- Receipt of goods, work and services not related to taxable turnover

- Receipt of passenger cars that are purchased as fixed assets
- Purchase of goods, work and services from suppliers recognized by courts as false enterprises, except for transactions recognized by courts as valid
- Purchases of goods, work and services that are recognized by courts as executed by private business entities without an actual intent to carry out entrepreneurial activities

**Refunds.** In practice, obtaining refunds requires significant effort. However, the rules prescribe a procedure for refunds under certain conditions.

Under the Tax Code of the Republic of Kazakhstan, the following amounts are refundable to a taxpayer from the budget:

- The amount by which input VAT exceeds the amount of tax assessed not related to zero-rated turnover, up to the amount of reverse-charge VAT, until 1 January 2016. Effective from 1 January 2016, the entire amount of input VAT that exceeds the amount of tax assessed that is not related to zero-rated turnover will be refundable.
- VAT paid to suppliers of goods, work and services that were acquired using a grant.
- VAT paid by diplomatic and equivalent representations accredited in Kazakhstan and by persons who are members of the diplomatic, administrative and technical staff of these representations, including members of their families who reside with them, to suppliers of goods, work and services acquired in Kazakhstan.
- The amount of any cash overpayment of VAT to the budget.

For zero-rated supplies, excess VAT must be refunded if both of the following conditions are satisfied:

- The VAT payer sells zero-rated goods, work and services on a continuous basis.
- Zero-rated sales account for at least 70% of the total taxable sales of the payer for the tax period in which the zero-rated sales occurred and for which a refund of excess VAT is claimed in a VAT return.

Excess VAT must be refunded to a taxpayer on the basis of a refund claim made in the VAT return for a tax period.

Excess VAT confirmed by a tax audit must be refunded within 180 days.

## G. Invoicing

In general, the VAT invoice is a compulsory document for all VAT payers. No input VAT is allowed without an appropriate VAT invoice.

The amount of taxable turnover can be adjusted if the cost of goods, work or services changes in certain circumstances, including the following:

- The goods are returned in whole or in part.
- The conditions of a transaction change.
- The price or amount of compensation for goods, work or services sold is changed.

Adjustments to the amount of taxable turnover can be made if both of the following conditions are satisfied:

- Accounting documentation is available.
- A corrected VAT invoice is issued.

The cost of goods, work and services and the amount of VAT must be stated in the VAT invoice in the national currency of Kazakhstan, except for goods, work and services sold under foreign-trade contracts and in other circumstances provided for in the law of Kazakhstan.

**Proof of exports.** To confirm the applicability of zero-rated VAT for turnover, the supplier must collect supporting documents that are stipulated in the tax law of Kazakhstan.

## H. VAT returns and payments

VAT payers must file a VAT return with the tax authorities for each tax period by the 15th day of the second month following the reporting tax period (quarter) and the respective liability must be paid to the budget by the 25th day of the second month following the reporting tax period.

A VAT return for the import of goods into Kazakhstan from other Customs Union member countries (Belarus and Russian Federation) must be filed with the tax authorities and the respective liability paid to the budget by the 20th day of the month following the tax period (month).

VAT on imported goods must be paid within the deadlines specified by the customs law of Kazakhstan for the payment of customs payments.

**Penalties.** The following administrative fines can be assessed with respect to VAT:

- Failure to file a tax return: penalty up to 70 MCI (approximately US\$715 in 2011)
- Understatement of tax payments: penalty up to 50% of the underpaid tax
- Issue of fictitious invoice: penalty up to 200% of the input VAT included in the invoice
- Nonpayment of tax for export and import of goods, work and services in the Customs Union: penalty up to 50% of the underpaid tax

Late payment interest of 2.5 times the official refinancing rate established by the National Bank of the Republic of Kazakhstan (currently, 7.5%) may be imposed.

Nonpayment of taxes may result in criminal charges.

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## Kenya

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*At the time of writing, a VAT Bill 2011 was being considered and it was not clear when the bill would be enacted. Because of the possible enactment of this bill, readers should obtain updated information before engaging in transactions.*

**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 1990
European Union (EU) member state	No
Member of the Southern African Customs Union	No
Administered by	Kenya Revenue Authority (www.revenue.go.ke)
VAT rates	
Standard	16%
Reduced	12%
Other	Zero-rated and exempt
VAT number format	P000111111A
VAT return periods	Monthly
Thresholds	
Registration	KSH 5 million (in 12 months)
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods and services in Kenya by a taxable person
- Reverse-charge services received by a taxable person in Kenya
- The importation of goods from outside Kenya, regardless of the status of the importer (unless the importer is listed as zero-rated in Part A of the Eighth Schedule to the VAT Act or the importer has been granted VAT exemption)

The exportation of goods and taxable services is zero-rated if, subject to the satisfaction of the Commissioner of Domestic Taxes, the supply takes place in the course of a registered person's business.

**C. Who is liable**

VAT is paid by consumers of taxable goods and services. It is collected by registered taxpayers (traders) that act as the agents of the government. VAT on imported goods is collected by the Commissioner of Customs Services Department, while the Commissioner of Domestic Taxes collects local VAT and VAT on imported services.

VAT registration is dependent on the attainment of a turnover threshold of KSH 5 million with respect to all taxable supplies.

Businesses that do not attain this turnover threshold are subject to turnover tax at a rate of 3% of their turnover up to a maximum turnover of KSH 5 million. After reaching this threshold, they must register for VAT. The registration process involves a person making an online application for a Personal Identification Number (PIN). During this process, an entity is required to state its tax obligations, which would include VAT in this case.

Within thirty days after becoming a taxable person, a person must apply to the Commissioner of Domestic Taxes in the prescribed manner to be registered.

**Group registration.** The Kenyan VAT Act allows group registration. However, in practice, group registration is allowed only under special circumstances.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Kenya. A foreign business is not required to register for VAT unless it has a permanent establishment in Kenya. A permanent establishment of a foreign business must register for VAT if it makes taxable supplies of goods or services. Other nonestablished businesses are not required to register for VAT. Instead, the person importing goods or services from a nonresident must pay the Kenyan VAT due.

**Late-registration penalties.** A penalty of KSH 20,000 is imposed in the event of late registration by traders who meet the turnover threshold.

Penalties apply to a range of other VAT offenses (see Section I).

#### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are not included in the Second and Third Schedules to the VAT Act, which specify exempt supplies. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Persons that make exempt supplies are not entitled to input tax deduction (see Section F).

The following are the VAT rates in Kenya:

- Standard rate: 16%
- Reduced rate: 12%
- Zero rate (0%)

Supplies listed in the Fifth Schedule to the VAT Act are zero-rated, which means no VAT is charged on the sale, but input tax incurred in making the sale is deducted against output tax. Electricity and heavy diesel products are taxed at a reduced rate of 12%. All other goods and services are subject to VAT at the standard rate of 16%.

The following table lists examples of exempt and zero-rated supplies of goods and services (this table is not exhaustive).

Supplies	VAT schedule	Example
Exempt goods	Second	Unprocessed agricultural products, airplanes and other aircraft
Exempt services	Third	Financial, insurance, medical, agricultural, animal husbandry and horticultural services, and

Supplies	VAT schedule	Example
		transportation of passengers (excluding transportation for hire)
Zero-rated supplies	Fifth, Part A	Exportation of goods and taxable services, goods and services supplied to export-processing zones and transportation of passengers by air carriers on international voyages or flights
Zero-rated goods	Fifth, Part B	Milk, medicaments, seeds, vitamins, fertilizers and agricultural machinery

### E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Kenya, the tax point is the earliest of the following events:

- The goods or services are supplied.
- An invoice is issued.
- Payment is received for all or part of the supply.

Other tax points apply in a variety of specific situations.

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

### F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is claimed by deducting it from output tax, which is VAT charged on supplies made. Taxable persons must claim input tax within one year after incurring the expense.

Input tax includes VAT charged on goods and services purchased in Kenya and VAT paid on imports of goods and services.

**Non deductible input tax.** VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain business expenses.

Except for goods purchased as stock in trade, input tax is restricted with respect to business expenses incurred on the following items:

- Passenger cars and minibuses, and their spare parts
- Oils for use in vehicles (including motor vehicles and similar vehicles), ships, boats and other vessels
- Furniture, fittings and ornaments of decorative items in buildings other than items permanently attached to buildings or such goods for use in hotels and restaurants subject to the approval of the Commissioner General
- Household or domestic electrical appliances other than those approved by the Commissioner General for use in the manufacturing of taxable goods or the supply of taxable services

- Entertainment, restaurant and accommodation services
- Taxable supplies for use in staff housing and similar establishments for the welfare of staff

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

Under the VAT Act, if a taxable person supplies both taxable and exempt goods and services, only input tax attributable to taxable supplies may be recovered. The attribution requires the approval of the Commissioner of Income Tax. However, two methods may be used without prior approval. The first method is a simple pro rata method, based on the value of taxable supplies compared with total supplies made. The second method is based on direct attribution of VAT incurred to supplies. The following are the attribution rules:

- Input tax directly attributable to taxable goods purchased and sold in the same condition is deductible in full.
- Input tax directly attributable to exempt outputs may not be deducted.
- Input tax that is not directly attributable to taxable goods purchased and sold in the same condition or to exempt outputs is recoverable in part. The recoverable amount is calculated using a simple pro rata method based on the value of taxable and exempt supplies made.

If the input tax attributable to exempt supplies is less than 5% of the total input tax, the input tax may be claimed in full.

**Refunds.** A taxable person may claim a refund of input tax in excess of output tax if the Commissioner General is satisfied that the excess arises from either of the following:

- Making of zero-rated supplies.
- Tax withheld by appointed tax withholding agents. However, withholding VAT was discontinued, effective from 1 July 2011.

The claim for a VAT refund must be made within a period of 12 months after the date on which the tax became payable. The period may be extended with the permission of the tax authorities, but not for a period longer than 24 months. In practice, the tax authorities are reluctant to approve claims filed after 12 months.

Within 3 months of the date on which a person becomes registered, it may file a claim for relief from VAT paid on stock held, business assets purchased, or buildings constructed 24 months before registration.

Claims in excess of KSH 1 million must be accompanied by an auditors' certificate. However, in practice, the VAT Department requires an auditors' certificate for refunds in excess of KSH 200,000 to facilitate speedy processing.

The Minister of Finance may also occasionally publish an order in the *Official Gazette* to remit, wholly or in part, tax payable with respect to any taxable goods or taxable services if the Minister is satisfied that it is in the public interest to do so.

The Commissioner General may refund tax in any of the following circumstances:

- Taxable goods are manufactured in or imported into Kenya and tax is paid with respect to such goods and, before being used, the goods are exported under customs control.
- Tax is paid in error.
- In the opinion of the Minister of Finance, it is in the public interest to refund tax.

A claim for tax paid in error must be filed within a period of one year after the date on which the tax was paid.

VAT on bad debts accounted for and paid by a registered person can be claimed after a period of three years from the date of such supply or it can be claimed if the person liable to pay the tax has become legally insolvent. However, it must be claimed no later than five years after the date of the supply. If legal insolvency does not apply, evidence of the effort to recover the tax is required to support such claims.

### G. Recovery of VAT by nonresidents

Kenya does not refund VAT incurred by a foreign business, unless the foreign business has a permanent establishment in Kenya and it is registered for VAT in Kenya.

### H. Invoicing

**VAT invoices and credit notes.** A supplier of taxable goods and services must issue a tax invoice to the purchaser at the time of supply. Simplified tax invoices may be used if the sales to any one person in a day do not exceed KSH 500.

A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes must show the same information as a tax invoice.

**Proof of exports.** Goods and services exported from Kenya are zero-rated. However, to qualify for zero rating, exports of goods must be supported by evidence that proves the goods left Kenya. Suitable evidence includes the following documents:

- A sales invoice
- A bill of lading, road manifest or airway bill
- A certified (endorsed) export entry (Form C17 [formerly Form C63])
- For sugar and other excisable goods, a certificate of exportation signed by the Commissioner of Customs and Excise

A service exported out of Kenya means a service provided for use or consumption outside Kenya, regardless of whether the service is performed in Kenya, outside Kenya or both inside and outside Kenya. However, to qualify for zero rating, exports of services must be supported by a copy of the invoice showing the sale of the services to the purchaser.

**Foreign-currency invoices.** Foreign-currency invoices are dealt with in the same way as invoices in local currency. The tax authorities do not require a standard exchange rate to be used to convert the value of foreign invoices into Kenyan shillings (KSH). In practice, they accept the rate used by the taxable person, if the rate used is within the prevailing market exchange rates.

## I. VAT returns and payment

**VAT returns.** The VAT tax period is one month. Returns must be filed by the 20th day after the end of the tax period. Payment is due in full by the same date. A “nil” return must be filed if no VAT is payable (either because the taxable person has made no supplies or because input tax exceeds output tax in the period).

If the normal filing date falls on a public holiday or on a weekend, the VAT return must be submitted on the last working day before that day.

If the return is sent by post, it is deemed to have been received on the postmark date on the envelope if the return is sent by the 15th day of the month following the return period. VAT returns are now being submitted online.

**Penalties.** The late submission of a return is subject to a penalty of KSH 10,000 or 5% of tax due, whichever is higher, plus late payment interest charged at a rate of 2% per month, compounded. Other penalties for VAT offenses include the following:

- Failure to comply with a notice to pay money owed to a taxable person: penalty of KSH 15,000 or a maximum sentence of 6 months’ imprisonment
- Failure to produce books or information required by an authorized agent: penalty of KSH 15,000 or a maximum sentence of 6 months’ imprisonment, or both
- Making false statements, producing false documents or providing false information: penalty of KSH 400,000 or double the amount of tax evaded or imprisonment for a period not exceeding three years, or both
- Failure to display registration certificate: penalty of KSH 20,000 and a fine of up to KSH 200,000 or a maximum sentence of 2 years’ imprisonment, or both
- Late application for registration: penalty of KSH 20,000 or a maximum sentence of 6 months’ imprisonment
- Enforced registration: penalty of at least KSH 100,000 but not exceeding KSH 200,000
- Failure to issue a tax invoice: penalty of KSH 10,000
- Failure to keep proper books: penalty of between KSH 10,000 and KSH 200,000
- General penalty for other offenses: maximum fine of KSH 500,000 or a maximum sentence of 3 years’ imprisonment

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## Korea

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Boo-ga-ga-chi-se
Date introduced	1 July 1977
European Union (EU) member state	No
Administered by	National Tax Service ( <a href="http://www.nts.go.kr">http://www.nts.go.kr</a> )
VAT rates	
Standard	10%
Other	Zero-rated, exempt and exempt with credit
VAT number format	000-00-00000 (the first three digits indicate the location of the tax office; the next two digits indicate the type of legal entity [for example, 81 for a Korean subsidiary and 84 for a Korean branch office]; the last five digits form a serial number)
VAT return periods	Quarterly
Registration thresholds	None (except for simplified taxation)
Simplified taxation	Individual business, with turnover of less than W 48 million in the previous calendar year if the business falls within categories prescribed in the VAT law
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods and services by a taxable person
- Reverse-charge services received by an exempt business person in Korea
- The importation of goods, regardless of the status of the importer

**Supplies of goods**

*Self-supply of goods.* If traders directly use or consume goods that are acquired or produced in the course of their business, the use or consumption of the goods is deemed to be a supply of goods to the traders themselves. This rule does not apply to stock-in-trade or to the consumption of the goods as raw materials.

*Personal use and gifts.* If traders use or consume goods produced or acquired in the course of the business for their personal use or for the use of employees or if traders donate goods to customers or

other persons, the use, consumption, or donations are deemed to be a supply of goods.

*Inventory on hand at the time of liquidation.* Inventory owned at the time of liquidation of a trader's business is considered to be supplied to the trader. The same rule applies if a VAT-registered person fails to start a business.

*Transactions through a consignee or an agent.* The sale or purchase of goods by a consignee or agent is deemed to be the same as if the consignor or the principal directly supplied the goods. However, this rule does not apply if the consignor or the principal cannot be identified.

*Offers of security and transfers of businesses.* Offers of goods given as security, and transfers of businesses to other persons are not deemed to be supplies of goods, unless these actions are undertaken by simplified taxpayers.

**Supplies of services.** Taxable supplies of services include the rendering of services, the leasing of goods or facilities and the granting of rights under a contract or by law.

A deemed self-supply of services takes place if traders provide services for their own businesses. However, in practice the Korean tax authorities do not levy VAT on the self-supply of services.

### C. Who is liable

**Taxpayer.** Any person that independently undertakes the supply of goods or services in the course of business, whether or not for profit, is liable to VAT. The definition of a VAT-registered trader includes individuals, corporations, the government and local authorities, associations of local authorities, and bodies of persons.

**Registration.** Any person that begins a business must register the particulars of each place of business with the tax authorities within 20 days after the date of business commencement. The business particulars may be registered before the date of business commencement. The tax office that has jurisdiction for the location of the trader's place of business issues a business registration certificate to the trader. In addition, the Korean VAT law provides that the registration can be based on business tax units if a taxpayer has various business places.

**Exemption from registration.** A person that carries on a VAT-exempt business may register under the corporate or individual income tax.

**Reverse charge.** A trader that receives supply of services from a nonresident or foreign corporation must collect the VAT at the time of the payment for such services and pay the amount to the government, unless the services received are used in taxable operations.

Foreign corporations include the following:

- A nonresident or a foreign corporation that does not own a place of business in Korea
- A nonresident or foreign corporation with a domestic place of business (permanent establishment) in Korea that supplies services not attributable and related to the domestic place of business



**Tax manager.** In certain circumstances, an individual trader must designate a tax manager to deal with filing tax returns, making tax payments, requesting refunds and handling other necessary matters. The tax manager's details must be reported to the competent tax office. A tax manager is required if the following circumstances exist:

- The individual is not normally present at the place of business.
- The individual intends to stay outside of Korea for a period of more than six months.

A trader that deems it necessary may choose to designate a tax manager with certain qualifications to deal with filing tax returns, making payments, claiming refunds and handling other tax matters.

**Deregistration.** A registered trader that has suspended or closed down its business or that has changed any of the registered particulars of the business is required to report the event without delay to the tax office that has jurisdiction for the trader's place of business. The same rule applies if a person that has registered for VAT before commencing business fails to actually start the business.

**Late-registration penalties.** If a person fails to register a business within 20 days after the date of commencing the activity, a penalty tax equal to 1% of the value of supplies made is imposed. If a taxpayer provides goods or services without registration or with late registration, the penalty applies to the value of the supplies made during the period beginning with the date on which business commenced and ending on the day before the date on which the registration is made. The amount of the penalty is used to adjust the amount of tax payable or deductible. The penalty is capped at W 100 million (W 50 million for small and medium-sized enterprises [SMEs]). The cap covers every six-month period.

## D. VAT rates

In Korea, the VAT rates are the standard rate at 10% and the zero rate. The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the zero rate or an exemption.

Input VAT (that is, VAT on related purchases) incurred with respect to exempt supplies is not refundable. However, traders may elect not to be exempted. The following table provides examples of exempt supplies of goods and services (this list is not exhaustive).

### Examples of exempt supplies of goods and services

Social welfare services (for example, medical and health services and education services)

Goods or services related to culture (for example, books, newspapers, magazines, official gazettes and communications, artistic works, and admission to libraries)

Personal services similar to labor (for example, by actors, singers and academic research services)

Postage stamps

Basic life necessities and services (for example, unprocessed foodstuffs such as agricultural products, livestock products, marine products, forest products, piped water, briquette and anthracite coal)

Services supplied by the government

Finance and insurance services

Input VAT incurred with respect to zero-rated supplies is refundable. The zero rate applies exclusively to traders that are residents and to domestic corporations. However, for international transportation by ships or aircraft, the zero rate applies to traders that are nonresidents and foreign corporations on a reciprocity basis. The following table provides examples of zero-rated supplies of goods and services (this list is not exhaustive).

**Examples of goods and services taxable at 0%**

Exported goods

Services rendered outside Korea

International transportation services by ships and aircraft

Other goods or services supplied for foreign currency

### **E. Time of supply**

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

Goods are deemed to be supplied at the following times (also, see the next paragraph):

- A supply of goods that requires the goods to be moved: when the goods are delivered
- A supply of goods that does not require the goods to be moved: when the goods are made available
- For other cases: when the supply of goods is confirmed

Goods are deemed to be supplied at the times specified below. However, if the goods are supplied after the date of the closure of a business, the closure date is regarded as the time of supply. The following are the times of supply for specified types of supplies:

- Cash or credit sales: when goods are delivered or made available
- Sales made for long-term installment payments: when each portion of the proceeds is stipulated as received
- Supply of goods under terms of payment on the percentage of work completed, or under terms of partial payments: when each portion of the proceeds is receivable
- Processing deemed to be a supply of goods: when the processed goods are delivered
- Self-supplies or the supply of services for personal use or for a gift: when the goods are consumed or used
- Business closure: the date of closure
- Goods supplied through vending machines: when the trader takes money from the machine
- Exports: the date of shipment
- Goods that are considered imported goods and that are supplied by a business in a bonded area to outside the bonded area: the date of the export declaration

Services are deemed to be provided at the times described below. However, if the time of supply comes after the closure of a business, the time of supply is deemed to be the date of business closure. The following are the times of supply for services:

- General rule: when the services are completely rendered
- Services provided under terms of payment based on the percentage of work completed, partial payment, deferred payment,

or any other payment terms: when each portion of the payments is to be received

- A deemed rent deposit for a lease or advance or deferred payment of rent for the leasing of land, buildings or other structures built on the land: when the preliminary tax return or the tax period has been completed
- Other cases: when the services have been completely rendered and the value of the supply is determined

If a trader receives partial or full payment of the consideration for a supply of goods or services and issues a tax invoice or receipt for the payment before the general time of supply occurs (as described above), the time of supply is deemed to be the date that the tax invoice or receipt is issued. However, this measure does not apply to long-term installment sales or supplies of goods on an ongoing basis, such as utilities and electric power, to which the general time of supply rules apply.

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. The basic rule for VAT recovery in Korea requires a supply of goods or services to be made by a taxable person in the course of business. Any VAT claimed must be supported by a valid VAT tax invoice or customs document.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes. Input tax incurred on expenses directly related to the business is generally recoverable. However, certain input tax is not recoverable, including the following:

- Input tax on expenses not directly related to the business
- Input tax on the purchase and maintenance of small automobiles used for nonprofit purposes
- Input tax incurred on the supply of goods or services that are exempt
- Input tax on entertainment expenses or similar expenses outlined in the Presidential Decree governing VAT recovery
- Input tax amount incurred more than 20 days before the date of registration

**Refunds.** If a trader is entitled to a refund, the competent tax office refunds the amount of tax refundable for each tax period concerned. This is done automatically through the submission of the periodic VAT return.

**Early refunds.** If a trader makes zero-rated supplies, if the trader is operating a newly established business or if the trader acquires, expands, or extends its business facilities, the tax office may refund the amount of tax due to the trader within 15 days after the date of the preliminary return (see Section I). This procedure is referred to as an “early refund.”

**Partial exemption.** If goods or services purchased by a trader are used both for taxable and exempt supplies, the creditable input tax is calculated based on the ratio of turnover related to supplies entitled to a VAT credit compared to the trader’s total turnover.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in

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

In Korea, the capital goods adjustment applies to the following assets for the number of taxable periods indicated:

- Buildings (adjusted for 20 taxable periods)
- Equipment and fixtures (adjusted for 4 taxable periods)

The adjustment is applied each taxable period following the taxable period of acquisition to a fraction of the total input tax (1/20 for buildings and 1/4 for equipment and fixtures). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the taxable period in which the capital goods were acquired.

### **G. Recovery of VAT by nonestablished businesses**

Korea refunds VAT incurred by businesses that are neither established nor registered for VAT in Korea. A nonestablished business may reclaim VAT to the same extent as a VAT-registered business.

A foreign company that is engaged in business in its home country but does not have a permanent establishment in Korea may reclaim the VAT incurred on the purchase of the following goods and services according to Article 107(5) of the Tax Incentive Limited Law:

- Meals and hotel charges
- Advertisements
- Electricity and telecommunications
- Real estate rentals and leases
- Goods and services necessary for the maintenance of an office in Korea

**Refund application.** A foreign company that seeks to reclaim VAT paid in Korea must submit an application, together with the required documents, to the district National Tax Service (NTS) by 30 June of the year following the calendar year covered by the claim. The district NTS must refund eligible VAT by 31 December of the year in which the application is submitted. The following documents must accompany the claim:

- A certificate that proves the foreign company is a registered business in its home country
- A detailed transaction list
- A copy of all tax invoices
- A power of attorney, if necessary

### **H. Invoicing**

**Tax invoice.** When a registered trader supplies goods or services, it must issue a tax invoice to the other party to the transaction. The tax invoice must contain the following information:

- The registration number and the name of the individual or corporate trader
- The registration number of the other party to the supply

- The value of the supply and the VAT charged
- The date, month and year in which the tax invoice is issued
- Other particulars as prescribed by the Presidential Decree

**Electronic Tax Invoice system.** The electronic tax invoice (ETI) is a tax invoice that is electronically transmitted to the information network of the NTS through an accredited certification system that can confirm information, such as a supplier's identification and the details of tax invoices if changed.

All registered corporate taxpayers must issue tax invoices under the ETI system, effective from 1 January 2010 and submit a statement of delivery to the NTS by the date specified by Presidential Decree.

**Self-issuance tax invoice.** If a customer receives supplies of goods or services from a trader without receiving a tax invoice, the customer may issue a self-billed tax invoice, after receiving an approval from a tax officer.

**Receipt.** Traders that carry on businesses dealing with the public, such as retail outlets, ordinary restaurants, hotels, and passenger transport, may issue a tax invoice that does not indicate separately the name of the other party to the supply and the amount of VAT charged.

**Monthly tax invoices.** If it is deemed necessary, a trader may prepare and issue a tax invoice by aggregating the total receivable transactions to the end of the month. The invoice must be issued by the 10th day of the following month.

**Import documentation.** The Customs office is required to prepare and issue import tax invoices for imported goods. The documents must be given to individuals and companies that make imports and must be issued in accordance with the provisions of the Customs Law. However, only companies may claim a refund of the VAT paid.

**Credit note.** If a tax invoice contains an error or if the trader needs to make a correction to the submitted tax invoice after it has been issued, the trader must prepare and reissue the tax invoice.

**Exemption from the obligation to issue tax invoices.** Persons that carry on any of the following activities are exempt from the obligation to prepare and issue tax invoices:

- Self-supplies of goods, personal use of goods, donations for a business purpose, supplies in the course of the closure of a business and self-supplies of services
- Exportations of goods, supplies of services abroad, and other specific supplies of goods or services that earn foreign currency and that are subject to the zero rate

**Foreign-currency considerations.** If a VAT invoice is issued in a foreign currency, all values that are required on the invoice must be converted into Korean won (W), using the exchange rate at the time of supply. The exchange rate is contained in the Foreign Exchange Transaction Regulation, and it is generally the exchange rate announced by Seoul Money Brokerage Service Ltd (<http://www.smbs.biz>).

**Export documentation.** A detailed statement is required for a supply to be qualified as an export. This document must be prepared by the trader.

## I. VAT returns and payment

The VAT period is quarterly. VAT returns must be filed on a quarterly basis.

**Preliminary returns.** A trader is required to file preliminary returns for the first and third quarters of the year, which end in March and September, respectively. These preliminary returns must indicate the tax base and the tax amount payable or refundable. The preliminary return must be filed within 25 days following the last day of each preliminary return period. A trader must pay the tax amount payable for the preliminary return period when the return is filed.

**Individuals or self-employed persons.** In general, for the preliminary return period, individuals or self-employed persons must pay an amount of tax equal to half of the tax paid for the regular return in the immediately preceding return period. They are not required to file preliminary returns. Individuals or self-employed persons are not required to make a payment if the tax amount is less than W 200,000.

However, the actual tax amount collected or refundable during the preliminary return period may be reported if the tax amount to be reported under a preliminary return is less than one-third of the amount of tax paid for the immediately preceding regular return period (for example, as a result of the suspension of the business or because of a downturn in business).

An individual or self-employed person who has no tax amount payable for the immediately preceding year or who is establishing a new business during the preliminary return period must report the actual tax amount collected (or refundable) during the preliminary return period.

**Final returns.** Traders must file a final return for the quarters ended June and December for the 2nd and 4th quarters of the year. The final return must be filed within 25 days following the end of the tax period. A trader must pay the tax amount payable for the final return period at the time of filing the return.

VAT returns must be completed in Korean won (W), and return liabilities must be paid in Korean won.

Few differences exist between a preliminary and final return except for the filing period and the reporting of input VAT. For companies that undertake both VAT-taxable and VAT-exempt business activities, the amount of nondeductible input VAT used for exempt business activities is recalculated in the final return.

Traders may file input VAT invoices related to the preliminary return period in the following final return period without incurring noncompliance penalties.

If a trader receives approval from the superintendent of the competent tax office of its principal place of business to be treated as a taxable unit, the trader must aggregate and report the tax returns for all of its places of business.

A trader also must submit an aggregate summary of the tax invoices for both sales and purchases and any supporting documents for zero-rated supplies at the time the preliminary returns and final returns are submitted.

**Record retention.** A trader must keep the books in which the transactions are recorded for a period of five years after the date of the final return for the tax period in which the transactions occurred. The books must also contain details of tax invoices or receipts issued or received. Records may be kept in hard copy or in electronic format.

**Payments.** A taxable person must pay the VAT due at each business place at the time of filing the return. However, if a trader has more than two business places, it may pay the entire VAT due at its principal place of business with the prior approval from the tax office that has jurisdiction over the principal business place.

**Penalties.** Penalties apply to the following VAT errors or offenses:

- Failure to register within 20 days from the set up of a business: 1% of the value of supply
- Failure to issue a correct tax invoice (including ETI) or to submit a correct list of tax invoices issued: 0.5% to 2% of the value of supply
- Failure to transmit a list of ETIs issued: 0.1% to 0.3% of the value of supply
- Failure to report a zero-rated VAT transaction in a VAT return: 1% of the tax base
- Failure to file a tax return: 10% to 40% of the underpaid tax amount (overpaid tax refund)
- Underpayment and nonpayment of taxes or overestimated refund: underpaid tax amount (or overpaid tax refund) at a rate of 10.95% annually
- Failure to comply with the requirement to make a proxy payment (reverse charge): 10% of the amount not paid

The first three penalties listed above are capped at W 100 million (W 50 million for SMEs). The cap covers every six-month period.

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## Latvia

(Country code 371)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Pievienotās vertības nodoklis
Date introduced	1 May 1995
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	State Revenue Service ( <a href="http://www.vid.gov.lv">http://www.vid.gov.lv</a> )
VAT rates	
Standard	22%
Reduced	12%
Other	Zero-rated and exempt
VAT number format	LV12345678901
VAT return periods	Monthly, quarterly and semiannually
Thresholds	
Registration	
Businesses established in Latvia	LVL 35,000
Businesses established elsewhere	First taxable supply (however, specific exemptions apply for EU-registered businesses)
Distance selling	LVL 24,000
Intra-Community acquisitions	LVL 7,000 (for nontaxable legal and private persons who perform business activities and are registered in Latvia; nontaxable legal persons are Latvian persons not registered in the Latvian Register of VAT Taxable Persons)
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services in Latvia by a taxable person
- Self-consumption of goods and services
- Reverse-charge services received by a Latvian taxable person
- The intra-Community acquisition of goods in Latvia from another EU member state
- Distance sales of goods in Latvia made to nontaxable persons
- The importation of goods into Latvia, regardless of the status of the importer

**C. Who is liable**

A taxable person is any natural or legal person or group of such persons bound by agreement, or the representative acting for a group of persons, who performs economic activities and who is registered with the State Revenue Service Register of VAT Taxable Persons. VAT groups and fiscal representatives are also considered to be taxable persons.



The VAT registration threshold for local businesses is VAT-taxable turnover in excess of LVL 35,000 in the preceding 12 months. However, voluntary VAT registration is possible before reaching the VAT registration threshold. If a business exceeds the VAT registration threshold, it must register for VAT by the 15th day of the month following the period in which the threshold is exceeded.

Special rules apply to “nonestablished businesses” (see *Non-established businesses*).

**Group registration.** Effective from 1 December 2009, VAT groups are allowed in Latvia.

The following are the rules for the registration of VAT groups:

- The value of VAT taxable transactions of at least one member of the VAT group in the preceding 12 months was LVL 250,000 (approximately €355,000).
- Each member of the VAT group must be registered for VAT.
- A member of a VAT group cannot be a member of another VAT group.
- VAT group members can be capital companies belonging to the same group of companies as well as Latvian branches of foreign legal entities, provided that, under the Law on Groups of Companies, the foreign legal entity belongs to the group of companies comprising other members of the VAT group.
- The members establishing the VAT group must enter into a valid contract.
- The members of the VAT group must be reachable at their legal addresses.
- The group members are jointly and severally liable for VAT group tax liabilities.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a permanent establishment in Latvia. A nonestablished business must register for VAT if it makes supplies of goods or services for which it is liable to pay VAT in Latvia. If a nonestablished business performs intra-Community acquisitions of goods in Latvia or supplies of services and if it fails to register as a VAT-taxable person, in certain cases, the liability to account for reverse-charge VAT transfers to the recipient of the goods or services in Latvia (provided the recipient is a VAT-registered person). An entity registered for VAT in another EU member state is not required to register for supplies made to Latvian taxable persons if the reverse charge applies (that is, the recipient of the service must account for the VAT on behalf of the supplier). The reverse charge does not apply to supplies made to private persons.

To register for VAT, a nonestablished business must submit the following documents to the State Revenue Service:

- A completed application form provided for in the Cabinet Regulations
- A copy of the registration certificate
- A copy of the articles of association
- Copies of agreements with major transaction partners in Latvia if requested by the State Revenue Service
- Confirmation of the address of the business in Latvia, if such an address exists

The person who submits the application must be either a person who has signature rights in the company or the applicant's authorized person. The person who submits the application must also present a passport or a driving license as proof of identity. In addition, if the person who submits the application is acting as the applicant's representative, he or she must present a power of attorney.

Effective from 1 January 2011, it is also possible to register a fiscal representative if the requirements stated in the Latvian VAT Law are met.

**Late-registration penalties.** No specific penalty applies to late registration. However, the following penalties may be assessed if VAT is not paid or if VAT returns are not filed as a result of a late registration:

- An administrative penalty in the amount of LVL 150 to LVL 250 (approximately €215 to €355) may be imposed for non-registration in the VAT taxable person's register.
- A penalty may be imposed for undeclared VAT. In such circumstances, undeclared VAT must be paid, together with a penalty of up to 30% of the unpaid VAT and late payment fines of 0.05% per day.
- A penalty in the amount of 0.05% per day may be imposed for late VAT payments.

**Domestic reverse charge.** Domestic supplies of specified scrap materials and related services are subject to the reverse-charge mechanism if the supplier and customer are taxable persons and if the customer is licensed to purchase scrap materials in Latvia. Scrap materials include certain ferrous and non-ferrous scrap, car wrecks, electrical and electronic waste and lead-acid batteries.

Effective from 1 January 2012, the domestic supply of construction services and construction-related services is subject to the reverse-charge mechanism if the supplier and customer are taxable persons.

## D. VAT rates

The term "taxable supplies" refers to supplies of goods and services that are subject to VAT. The term "exempt supplies" refers to supplies of goods and services that are not subject to VAT and that do not give rise to a right of input VAT deduction. In addition, effective from 1 January 2010, services supplied according to the new place of supply rules to other persons who perform economic activities (EU Directive 2008/8/EC) are treated as services that have a place of supply located in another country. Consequently, VAT does not apply to such supplies. However, these supplies give rise to a right of input VAT deduction.

In Latvia, the following rates of VAT apply:

- Standard rate: 22%
- Reduced rate: 12%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Real estate transactions (except the sale of unused real estate and the sale of building land [in general, a land plot is considered building land if building permission is issued after 31 December 2009])

Financial services

Insurance and reinsurance services

Health and welfare services

Education and cultural services

Postal services provided by Latvijas Pasts

Betting and gambling

#### **Examples of supplies of goods and services taxable at 0%**

Exports of goods and related services

International transport

Tourism services provided outside Latvia

#### **Examples of goods and services taxable at 12%**

Mass media and subscriptions thereto, except erotic material and pornography

Specialized products for infants

Medicines and medical devices (according to a special list)

Study literature (literature printed especially for schools and universities) and original literature (according to a special list)

Firewood and fuel wood supplied to natural persons

Supply of thermal energy to natural persons

Public transport services provided in Latvia

Accommodation services provided in Latvia

### **E. Time of supply**

In general, VAT is due when the following events occur:

- The goods are delivered or service is performed, and the VAT invoice is issued.
- A prepayment is received in accordance with the prepayment invoice issued.

However, for a supply of services subject to the new place of supply rules under EU Directive 2008/8/EC, VAT is due when the service is performed or the prepayment is received.

A VAT invoice must generally be issued within 15 days after services are rendered or goods are supplied. If the transaction is performed continuously over a long period of time, the VAT invoice may be issued for a period not exceeding six months.

**Intra-Community acquisitions.** VAT related to the intra-Community acquisition of goods must be paid when the goods and VAT invoice are received or when a prepayment is made in accordance with the invoice received.

If a tax invoice has not been received, the VAT due must be included in the VAT declaration for the tax period after the period in which the intra-Community acquisition is made.

**Imported goods and postponed accounting.** Import VAT becomes due when goods are released for free circulation.

VAT on imports that is paid to the state budget may be deducted as input VAT in VAT returns for the period in which the goods are released for free circulation.

Under the Latvian VAT law, the principle of postponed accounting rules can be applied to the importation of fixed assets if the following conditions are satisfied:

- The taxable person imports fixed assets, which are intended fully or partially for use in its taxable transactions within a period of at least 12 months from the moment of importation of the fixed assets.
- The value of the fixed assets (excluding VAT) is at least LVL 500 (approximately €710).
- The taxable person does not have a tax debt for previous tax periods.
- If the fixed asset is a passenger car, it is imported by a taxable person engaged in the basic activity of leasing or hire-purchase transactions with passenger cars, the provision of taxi services and vehicle driver training.

Postponed VAT accounting corresponds to the principle that instead of physical payment of import VAT into the State budget, the taxpayer may declare it by way of reverse-charge VAT. Until 1 December 2009 such principle (under specific conditions) applied with respect to fixed assets (see above). However, under amendments to the Latvian VAT law, effective from 1 December 2009, the postponed VAT accounting mechanism can also be applied to the importation of goods that are to be released in free circulation in the EU. However, a taxable person is entitled to apply the postponed accounting mechanism only if the person has received in advance a special permit from the Latvian State Revenue Service. To receive this permit, the following conditions must be satisfied:

- The taxable person must have registered its economic activities in Latvia.
- The taxable person is a registered client of the State Revenue Service electronic reporting system.
- On the date of submission of the application to receive the permit, the taxable person does not have a tax debt relating to previous tax periods, or such tax debt is paid within five working days after the submission date of the application.
- The employee who has authority to sign the application has not been punished for criminal offenses of an economic nature.
- By a date specified by the State Revenue Service, the taxable person provides informative reports or additional information that is necessary to determine the amount of tax payable to the State budget or the amount of an overpayment.

## **F. Recovery of VAT by taxable persons**

A taxable person may deduct input VAT, which is the VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input VAT by deducting it from output VAT, which is VAT charged on supplies made.

Input VAT includes VAT charged on goods and services supplied in Latvia, VAT paid on imports of goods and VAT self-assessed

for intra-Community acquisitions of goods and for reverse-charge services received from foreign persons.

The amount of the VAT reclaimed must be supported by a valid VAT invoice.

**Nondeductible input VAT.** Input VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for the private use of an entrepreneur). In addition, input VAT may not be recovered for some items of business expenditure.

The following tables provide examples of items of expenditure for which input VAT is not deductible and examples of items for which input VAT is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input VAT is nondeductible**

Hotel accommodation (if nonbusiness expenditure)

Business gifts (except representation gifts with the company logo for which 40% of the input VAT is deductible)

Taxi services (if nonbusiness expenditure)

Business and employee entertainment

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

Purchase, lease and hire of vans and trucks

Fuel for vans and trucks

Purchase, lease and hire of cars (80% deductible)

Fuel for cars (80% deductible)

Parking

Mobile phones

Advertising

Books

Taxi services

**Partial exemption.** Input VAT directly related to performing VAT-exempt supplies is not recoverable. If a Latvian taxable person makes both VAT-exempt supplies and taxable supplies, it may not deduct input VAT in full. This situation is referred to as “partial exemption.”

The amount of input VAT that may be deducted by a partially exempt business is calculated based on the percentage of taxable supplies to total supplies made each month. The monthly calculation is adjusted annually.

If a taxable person makes both taxable and VAT-exempt supplies and if the value of its taxable supplies is greater than 95% of the total value of its supplies in the period, the taxable person may deduct input VAT in full (without applying the partial-exemption calculation) on a monthly basis. A taxable person that is in this position must adjust its input VAT deduction on an annual basis.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years.

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

- Immovable property: adjusted for a period of 10 years
- Fixed assets that have a purchase or producing value (expenditure incurred to produce a fixed asset) exceeding LVL 50,000 (approximately €71,140), excluding VAT: adjusted for a period of five years

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

During the construction, production or purchase phase for real estate or a fixed asset, the input VAT is deducted according to the normal rules. The adjustment is applied each year following the year of construction, production or acquisition, to a fraction of the total input tax (1/10 for immovable property and 1/5 for the fixed assets). The adjustment may result in either an increase or decrease of deductible input tax, depending on whether the ratio of taxable supplies made by the business has increased or decreased since the year in which the capital goods were acquired.

An adjustment is not made if the proportion does not change during the tax year.

If immovable property (or a part of it) is sold within a period of 10 years after its acquisition or acceptance for service, the taxable person must repay to the state budget an amount of input tax equal to an amount calculated by multiplying 1/10 of the deducted input tax by the number of years that remain in the 10-year adjustment period. This repayment is included in the value of the immovable property, and the purchaser may not deduct it as an input tax.

**Refunds.** Under amendments to the Law on Value-Added Tax, effective from 1 July 2010, the State Revenue Service may carry forward overpaid VAT incurred on or after 1 July 2010 to the next tax period within 30 days after it receives the VAT return for the respective tax period.

The transfer of the overpaid VAT to the next tax period may occur after the taxpayer makes a request in the Electronic Declaration System and the other tax liabilities of the taxpayer are fulfilled.

If, after the fulfillment of other tax liabilities, an amount of overpaid VAT amount remains, the respective VAT amount may be forwarded to the following tax period.

If, at the end of the tax year, an amount of overpaid VAT for the taxpayer remains, the overpaid VAT is repaid to the taxpayer's bank account within 10 days after the State Revenue Service receives the VAT return for the final month of the respective tax year and approves the overpaid VAT amount.

The State Revenue Service refunds overpaid VAT incurred during the tax period if at least one of the following conditions is met:

- The total amount of the taxpayer's zero-rated transactions and the transactions that have a place of supply not in Latvia account for at least 90% of the total value of taxable transactions.

- The overpaid VAT amount exceeds LVL 1,000 (approximately €1,420), and the total amount of zero-rated transactions, reduced-rate transactions and transactions that have a place of supply not in Latvia account for at least 20% of the total value of taxable transactions.
- The overpaid VAT amount incurred for fixed assets exceeds LVL 100 (approximately €142), and the taxable person requests a refund of the VAT overpayment.
- The overpaid VAT amount exceeds LVL 1,000 (approximately €1,420), and it is incurred for goods and services purchased for transactions involving timber or scrap metal.
- The overpaid VAT amount exceeds LVL 8,000 (approximately €11,385).

The State Revenue Service may delay the refund of an overpaid tax amount by notifying the taxpayer in writing if any of the following circumstances exist:

- A decision has been made to conduct examinations and audits regarding the transactions and to seek necessary information for such examinations and audits. The period of the delay extends to the date on which the tax administration completes its evaluation of the transactions and reaches a decision regarding the justification for the application.
- The taxpayer cannot provide documentary evidence justifying the application of the 0% tax rate. The period of the delay extends until the date on which the documents are submitted verifying the exports or otherwise confirming the application of the 0% tax rate.
- The overpaid tax must be reduced by the amount of tax paid with respect to bad debts. The period of the delay extends to the date on which the reduction takes place.

**Bad debts.** Effective from 1 December 2009, a new rule regarding the recovery of bad debts applies. Under the new rule, taxable persons who supply goods or provide services may recover VAT related to their bad debts if specific conditions are met. VAT recovery can be performed on an annual basis.

## G. Recovery of VAT by nonestablished businesses

Latvia refunds VAT incurred by businesses that are not established in Latvia nor are required to be registered for VAT there. Nonestablished businesses may claim Latvian VAT refunds to the same extent as VAT-registered businesses.

**Refund application.** For businesses established in the EU, refund is made under the terms of EU Directive 2008/9/EC; for businesses established outside the EU, refund is made under the terms of the EU 13th Directive.

The application form may be completed in Latvian or in English.

Refund claims may be made for the following periods:

- One calendar year or a period of less than three months if the claim is made for the last three months of the calendar year (that is, the period from 1 October to 31 December)
- A period of at least three calendar months and less than one calendar year

For non-EU taxable persons, a claim for a complete calendar year must exceed LVL 20 (approximately €30) and a claim for a

period of less than a calendar year, but longer than three months, must exceed LVL 135 (approximately €190).

For EU taxable persons, the amount of the claim in an application for a complete calendar year must exceed LVL 33 (€50 or equivalent value in other currency), and the amount of claim in an application for a period shorter than a calendar year, but longer than three months, must exceed LVL 281 (approximately €400 or equal value in other currency).

For non-EU taxable persons, the documents must be submitted to the State Revenue Service within the following time limits:

- For a claim for one calendar year or a period less than three months: within six months after the end of the tax year (that is, by 1 July of the following year)
- For a claim for a period less than three calendar months but not longer than one calendar year: within three months after the end of the period indicated in the application form

The documents must be submitted to the State Revenue Service via the Electronic Declaration System by 30 September of the period following the requested refund period. In practice, the VAT could be refunded within a four-month period from the date of submission of the documents. This period may be prolonged if the tax authorities ask for additional information. In such case, the State Revenue Service will make a decision on a tax refund within a period of four months from the date of receipt of all relevant documents and information additionally required and submitted by the respective taxable person.

For EU taxable persons, the VAT refund request must be submitted via the local tax authorities according to the principles provided by EU Directive 2008/9/EC.

The decision on the VAT refund for persons from other EU member states is made within four to eight months, depending on whether additional information is required by the State Revenue Service or the tax authorities of the other EU member states.

## H. Invoicing

**VAT invoices and credit notes.** A Latvian taxable person must generally provide a VAT invoice for all taxable supplies made and for exports within 15 days after the supply has been made.

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

**Proof of exports.** The zero VAT rate applies to exports of goods. An export supply must be accompanied by evidence confirming that the goods have left Latvia. Suitable evidence includes the stamped customs exportation documentation.

**Invoices issued in a foreign currency.** If an invoice is issued in a foreign currency, the amount of the VAT must be converted to Latvian lats (LVL). The conversion must be done using the official exchange rate quoted by the National Bank of Latvia on the date of the supply.



## I. VAT returns and payment

**VAT returns.** In general, VAT returns may be filed monthly, quarterly or semiannually, depending on the amount of taxable supplies made by the taxable person. A VAT return must be filed by the 20th day of the month following the end of the tax period if it is submitted via the Electronic Declaration System or by the 15th day of the month following the end of the tax period if the VAT return is submitted in paper format.

Effective from 1 January 2011, the VAT return must be submitted electronically by the 20th day of the next tax period.

VAT returns must be filed every six months if, during the year before the tax year, the amount of taxable transactions of the taxable person did not exceed LVL 10,000 (approximately €14,500) and if the taxable person did not perform intra-Community supplies of goods or supply services that had a place of supply in other EU member states.

VAT returns must be filed on a quarterly basis if, during the year before the tax year, the amount of taxable transactions exceeded LVL 10,000 (approximately €14,500), but did not exceed LVL 35,000 (approximately €50,000), and if the taxable person did not perform intra-Community supplies of goods or supply services that had a place of supply in another EU member state.

VAT returns must be filed on a monthly basis if the amount of taxable transactions performed by a taxable person during the year before the tax year exceeded LVL 35,000 (approximately €50,000) or if the taxable person supplies goods or services within the EU.

**Penalties.** An administrative penalty for the nonsubmission of a VAT return is payable to the state budget in an amount ranging from LVL 50 to LVL 500 (approximately €70 to €710). In addition, the tax authorities can exclude the taxpayer from the registry of VAT-taxable persons.

Also, penalties may be imposed for undeclared VAT. In such case, the undeclared VAT must be paid, together with a penalty of up to 30% of the unpaid VAT amount and a late penalty fine in the amount of 0.05% per day.

A penalty for late VAT payment is imposed in the amount of 0.05% per day.

## J. EU declarations

**INTRASTAT.** A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of either its sales or purchases of goods exceeds certain thresholds. The applicable form, which must be submitted to the Central Statistical Bureau of the Republic of Latvia, depends on the threshold prescribed for acquisitions and supplies, respectively. The following are the INTRASTAT thresholds, effective from 1 January 2010:

- LVL 80,000 (approximately €114,000) for intra-Community acquisitions (if this threshold is met, INTRASTAT 1A must be submitted)

- LVL 1,300,000 (approximately €1,850,000) for intra-Community acquisitions (if this threshold is met, INTRASTAT 1B must be submitted)
- LVL 70,000 (approximately €100,000) for intra-Community supplies (if this threshold is met, INTRASTAT 2A must be submitted)
- LVL 1,800,000 (approximately €2,561,000) for intra-Community supplies (if this threshold is met, INTRASTAT 2B must be submitted)

The INTRASTAT return must generally be submitted on a monthly basis. The submission deadline is the 10th day of the month following the return period.

Penalties may be imposed for late, missing or inaccurate declarations.

**EU Sales Lists and EU Purchase Lists.** If a taxable person makes intra-Community supplies of goods and services in a return period, it must submit an EU Sales List (ESL) to the State Revenue Service. An ESL must be submitted as an appendix to the VAT return.

ESLs must be submitted on a calendar monthly basis by the 20th day following the end of the month (if submitted electronically) or by the 15th day (if submitted in paper format).

If a taxable person makes intra-Community acquisitions of goods and services in a return period, it must submit an EU Purchase List (EPL) listing intra-Community acquisitions of goods and services to the State Revenue Service. The EPL must be submitted as an appendix to the VAT return.

EPLs must be submitted on a calendar monthly basis by the 20th day following the end of the month (if submitted electronically) or by the 15th day (if submitted in paper format).

Effective from 1 January 2011, ESLs and EPLs must be submitted electronically together with the VAT return.

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

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 February 2002
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.finance.gov.lb">http://www.finance.gov.lb</a> )
VAT rates	
Standard	10%
Other	Exempt and zero-rated
VAT number format	Tax identification number (TIN), followed by the VAT number (indicating whether the taxable person is an exporter; for example, 1473-601)
VAT return periods	Quarterly
Thresholds	LL 150 million
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Lebanon by a taxable person
- The importation of services by a person resident in Lebanon
- The importation of goods into Lebanon, regardless of the status of the importer

## C. Who is liable

A taxable person is an entity or individual who makes taxable supplies of goods or services in the course of doing business in Lebanon, in excess of the registration threshold. This definition includes a permanent establishment of a foreign business in Lebanon. The deadline for registration is two months after the last day of the quarter in which the liability to register arose.

The VAT registration threshold is total turnover of at least LL 150 million in the preceding four quarters.

**Voluntary registration.** Any person that begins or performs an independent economic activity that is liable to tax, or that is exempt with the right of deduction in accordance with the provisions of the VAT law, may voluntarily apply to become a taxable person, regardless of the person's level of turnover.

**Group registration.** The Lebanese VAT law does not allow VAT group registration. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** A "nonestablished business" is a business that has no fixed establishment in Lebanon. A nonestablished business must register for VAT if it makes taxable supplies in Lebanon.

**Tax representatives.** A nonestablished business must appoint a tax representative resident in Lebanon before it makes any supplies of goods or services there, regardless of its expected level of turnover. The tax representative is jointly and severally responsible for the payment of all VAT liabilities and penalties with the nonestablished business that it represents. The tax representative is solely responsible for complying with all of the other provisions of the Lebanese VAT law.

If a Lebanese resident receives a taxable supply of goods or services from a nonestablished supplier that has not appointed a tax representative in Lebanon, the Lebanese resident is liable to pay VAT and any penalties due to the VAT authorities. However, the Lebanese resident may try to recover these amounts from the nonestablished supplier.

**Deregistration.** A taxable person that ceases to carry on business in Lebanon must end its registration. A taxable person whose turnover falls below the compulsory registration limit may also deregister.

A taxable person that is registered voluntarily may request deregistration if its annual turnover does not exceed the compulsory VAT registration threshold.

**Late-registration penalties.** Before Law No. 44, dated 11 November 2008 (Law of Tax Procedures), the VAT assessment for late registration was made under Article 36, Section 3 of the 2004 Budget. This section states that every person who meets the taxable conditions in accordance with the VAT law and who does not submit a registration request within the legal period is subject to the following measures:

- The amount of tax is assessed on the basis of the lump-sum profit stated in the income tax return with respect to the taxable operations carried out from the deadline for the registration for VAT up to the date of effective registration. In this case, the person may not benefit from the right to deduct the input VAT incurred during the above-mentioned period.
- A 10% late penalty is imposed on the amount of VAT as calculated above for each VAT period (quarter). This penalty may not exceed 100% of the amount due and may not be less than LL 1 million (US\$667).

In addition, under Law No. 44, dated 11 November 2008, late registration with the relevant tax department triggers the following penalties:

- LL 2 million for joint stock companies
- LL 1 million for limited liability companies
- LL 300,000 for sole proprietorships and other taxpayers

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services not liable to tax which do not give rise to a right of input tax deduction (see Section F).

In Lebanon, the two rates of VAT are the standard rate of 10% and the zero rate (0%). The standard rate of VAT applies to all

supplies of goods and services, unless a specific measure provides for the zero rate or an exemption.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Postal services and stamps

Education

Insurance

Financial services

Transfer of real estate

Medical services and equipment

Precious metals and precious and semiprecious stones

Betting and gaming

Transport of persons

Agricultural activities and products, including livestock, seeds, animal feed and pesticides

Books, newspapers and magazines

Basic foodstuffs and baby food

#### **Examples of goods and services taxable at 0%**

Exported goods

Exported services

International transport

### **E. Time of supply**

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

- When the goods are delivered or the services are performed
- When the consideration is paid if this occurs before the goods are delivered or services are performed
- When the invoice is issued if this occurs before the goods are delivered or services are performed

**Imported goods.** The time of supply for imported goods is when the liability to pay customs duties arises, that is, either on the date of importation or when the goods leave a duty suspension regime.

**Imported services.** A Lebanese resident who uses a service in Lebanon that is acquired from abroad must account for VAT on the service and pay VAT due to the VAT authorities. The tax point is when the service is received and the consideration is paid.

### **F. Recovery of VAT by taxable persons**

A VAT payer may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A VAT payer generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in Lebanon and VAT paid on imports.

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

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Business entertainment

Nonbusiness expenditure

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

Accommodation

Advertising

Business gifts

Conferences

Purchase, lease and hire of cars, vans and trucks

Business use of home telephone

Mobile phones

Taxis

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. If a Lebanese taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as a “partial exemption.” Zero-rated supplies (sometimes referred to as “exempt with credit” supplies) are treated as taxable supplies for these purposes.

A taxable person that makes both taxable and exempt supplies may generally recover input tax that is related to taxable supplies only. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible. The remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned. The apportionment may be calculated based on the value of taxable supplies made compared with total turnover.

However, certain VAT exempt entities, including hospitals, educational institutions and nonprofit organizations, known as “Article 59 entities,” are subject to a special VAT recovery regime. Article 59 entities use fixed recovery percentages for recovering input VAT, depending on the type of expenditure. The following are the fixed percentages:

- 100% recovery is allowed for purchases of fixed assets.
- 100% recovery is allowed for current expenses.

**Refunds.** If the amount of VAT recoverable in a month exceeds the amount of VAT payable, the taxable person earns a VAT credit. The VAT credit is generally carried forward to offset output tax in the following VAT period. A refund of any remaining VAT credit may be claimed twice per year (every six months). However, exporters may claim a refund of the VAT credit at the end of each quarterly VAT period.

The VAT authorities must make a refund within three months after the date of receipt of the claim. The VAT authorities pay interest on late refund payments at a rate of 9% per year, beginning at the end of the fourth month following the date on which the claim is submitted.

### **G. Recovery of VAT by nonestablished businesses**

The Lebanese VAT authorities do not refund VAT incurred by businesses that are neither established nor registered for VAT in Lebanon.

### **H. Invoicing**

**VAT invoices and credit and debit notes.** A taxable person must generally provide VAT invoices for all taxable supplies made to other taxable persons and for exports. Taxable persons that supply goods and services primarily to retail customers may issue cash receipts instead of full tax invoices.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. The value of the supply may be reduced if a supply is cancelled, goods are returned (in full or in part) or the contractual price is reduced. The amount of VAT credited must be separately itemized in the credit note. The credit note must be cross-referenced to the original VAT invoice and must contain generally the same information.

**Proof of exports.** Lebanese VAT is not chargeable on supplies of exported goods, which are zero-rated. However, to qualify as VAT-free, an export supply must be accompanied by official customs evidence and port clearance documents, stating that the goods have left Lebanon.

**Invoices issued in a foreign currency.** If an invoice is issued in a foreign currency, all values for VAT purposes must be converted to Lebanese pounds (LL) using a published exchange rate for the date of the transaction.

### **I. VAT returns and payment**

**VAT returns.** Lebanese VAT returns are submitted for quarterly periods. VAT returns must be filed within 20 days after the end of the tax period. Payment in full is required at the same time. VAT liabilities must be paid in Lebanese pounds.

**Penalties.** A penalty is charged for the late submission of a VAT return at a rate of 5% of the tax due for each month or part of a month that the return is late. The minimum penalty is LL 750,000 for joint stock companies, LL 500,000 for limited liability companies and LL 100,000 for other taxpayers, and the maximum penalty is 100% of the tax due. For these purposes, a fraction of a month is considered to be a whole month.

A penalty is charged for late payment of tax at a rate of 1.5% per month or part of a month that the tax is unpaid.

The penalty for fraudulently claiming a VAT refund is twice the amount of tax claimed. Criminal sanctions may also apply.

Penalties apply to a range of other VAT errors and offenses, including the submission of incorrect tax returns (penalty is 20%

of the difference between the tax due and tax paid), the issuance of incorrect VAT invoices (penalty is 25% of the tax due on the invoice), the issuance of invoices by unregistered taxpayers (penalty is three times the VAT amount in the invoice) and the failure to retain documents.

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*The Lithuanian parliament has approved several significant amendments to the VAT Law, which are effective from 1 January 2012 and 1 January 2013. The principal changes contained in the amendments are summarized in Section K of this chapter. Because of the scope of these changes, readers should obtain updated information before engaging in transactions.*

### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Pridetines vertes mokestis
Date introduced	1 May 1994
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	Ministry of Finance ( <a href="http://www.finmin.lt">http://www.finmin.lt</a> ) State Tax Inspectorate ( <a href="http://www.vmi.lt">http://www.vmi.lt</a> )
VAT rates	
Standard	21%
Reduced	5%/9%
Other	Zero-rated and exempt
VAT number format	LT123456789 LT123456789012
VAT return periods	
Monthly	General return period
Semiannually	For natural persons (may be changed to monthly); optional for legal persons with turnover not exceeding LTL 200,000 (€57,924) in the preceding year



Quarterly	For non-EU persons that supply electronic services to nontaxable persons
Other	For members of international groups (period may not be longer than 60 days, and the entity's fiscal year must coincide with the beginning and end of the calendar year)
Thresholds	
Registration	
Businesses established in Lithuania	Revenue of LTL 155,000 (€44,891) in the preceding 12 months
Businesses established elsewhere	First taxable supply (unless the reverse charge applies)
Distance selling	LTL 125,000 (€36,203)
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services in Lithuania made for consideration by a taxable person performing economic activities
- The intra-Community acquisition of goods from another member state (see the chapter on the EU, page 208)
- The importation of goods into Lithuania (subject to import VAT)
- Certain other cases linked to the international traffic of goods (for example, the supply of goods that are intended to be produced to customs and placed in temporary storage, the supply of goods that are intended to be placed in a free zone or in a free warehouse and the supply of goods that are intended to be placed under customs warehousing arrangements or inward processing arrangements)

## C. Who is liable

A taxable person is a business entity, individual established in Lithuania or elsewhere or a collective-investment undertaking (fund) that performs economic activity in the course of its business in Lithuania.

The VAT registration threshold for Lithuanian entities is turnover in excess of LTL 55,000 in the preceding 12 months. If the total turnover of all the entities controlled by a single entity or by an individual exceeds LTL 55,000, all the entities are required to register for VAT even if the turnover of each entity separately does not exceed the threshold.

Special rules apply to foreign or “nonestablished” businesses that have no fixed establishment in Lithuania.

**Voluntary registration.** A business established in Lithuania that has turnover not exceeding the registration threshold or a person that acquires or plans to acquire goods from another EU member state (except new means of transport or excise goods) may register for VAT voluntarily. In practice, persons established outside Lithuania may also voluntarily register for VAT.

**Group registration.** VAT group registration is not allowed under the Lithuanian VAT law. Entities that are legally related must register for VAT individually.

**Nonestablished businesses and tax representatives.** A “nonestablished business” is a business that does not have a fixed establishment in Lithuania. A nonestablished business must register for VAT in Lithuania if it makes taxable supplies of goods or services there. No VAT registration threshold applies to supplies made by foreign nonestablished businesses; that is, registration is required in the event a taxable supply is made in Lithuania, unless the reverse charge applies or unless the supply is outside the scope of VAT or is exempt. A nonestablished business must register for VAT through a fixed establishment in Lithuania or appoint a fiscal representative (tax representative). The requirement to appoint a fiscal representative does not apply to nonestablished businesses that are established in other EU member states.

An EU taxable person must register for VAT if it makes distance sales of goods to customers in Lithuania in excess of LTL 125,000 (€36,203) in a year.

Foreign entities are not required to register for VAT if their transactions are exempt, outside the scope of VAT or zero-rated (taxable at 0%). However, for certain supplies, VAT registration is required even though the zero rate of VAT applies. These supplies include the following:

- Exports of goods
- Supplies of goods that are intended to be produced to customs and placed in temporary storage
- Supplies of goods that are intended to be placed in a free zone or in a free warehouse
- Supplies of goods that are intended to be placed under customs warehousing arrangements or inward processing arrangements
- Services linked to the above supplies
- Supplies of goods to another EU member state that are transported to that country
- Supplies of new vehicles that are transported to another EU member state

Taxable persons established outside the EU that supply electronic services and taxable persons that supply electronic services through a subsidiary established outside the EU to nontaxable persons established in Lithuania must register for VAT (that is, if the service provider is not yet registered in another EU member state).

**Reverse charge.** A nonestablished business that makes taxable supplies in Lithuania is not required to register for VAT if the reverse-charge rule applies to all its transactions. Under the reverse-charge rule, effective from 1 January 2010, the Lithuanian customer that is a taxable person established in Lithuania is responsible for the calculation and payment of VAT, unless either of the following circumstances exists:

- The supply is used by a fixed establishment of the person outside Lithuania.
- The supply falls under the list of exceptions.

Under the reverse-charge rule, effective from 1 January 2010, a customer that is a VAT-registered person in Lithuania is respon-

sible for the calculation and payment of VAT with respect to supplies of the following:

- Natural gas and electricity
- Goods installed and assembled in Lithuania

The Lithuanian VAT law also provides for a reverse-charge procedure with respect to supplies between persons established in Lithuania, including the following:

- Supplies of goods and services while a supplier is under bankruptcy or a restructuring procedure
- Supplies of metal scrap and similar products
- Supplies of certain timber materials

**Late-registration penalties.** Penalties and interest are not assessed for late registration or failure to register for VAT. However, if a business does not register for VAT, it still must calculate and pay VAT. Failure to comply with this obligation may result in penalties and interest. In addition, the tax authorities may restrict the deduction of input VAT incurred before VAT registration.

#### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Goods and services that are outside the scope of VAT do not result in tax deductions.

In Lithuania, the following are the VAT rates:

- Standard rate: 21%
- Reduced rates: 9% (for supplies of books and printed nonperiodical materials and for heating and hot water supplies to residential premises [until 31 December 2012]) and 5% (for medical products and medical purposes products, subject to full or partial compensation from the state medical insurance budget [until 31 December 2012])
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT (these lists are not exhaustive).

##### **Examples of exempt supplies**

Healthcare services and goods  
 Real estate rent and disposals  
 Insurance and reinsurance  
 Certain financial services  
 Cultural and sporting activities  
 Educational services  
 Betting and gaming services  
 Universal post services  
 Social and related services  
 Radio and television services  
 Imported goods (certain cases)

**Examples of supplies of goods and services taxable at 0%**

Exports of goods from the EU and related services  
 International transport and related services  
 Supplies related to ships and aircraft  
 Intra-Community supplies of goods  
 Work on movable tangible property (certain cases)  
 Intermediary services for the above supplies

**E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods and services is when the VAT invoice is issued. If an invoice is not issued, the time of supply is when the earlier of the following events occurs:

- Goods or services are supplied
- Payment for goods or services is received

A range of other situations have different time of supply rules. Some of these situations are described below.

**Intra-Community acquisitions.** The time of supply for the goods acquired from another EU member state is the date on which the supplier issues an invoice, but not later than the 15th day of the month following the month during which the transport of goods began.

**Prepayments.** The time of supply for a prepayment received before the supply is made is when the prepayment or the total payment is received. This rule applies to contracts that provide for a supply after 12 months. If the prepayment is received and if the supply will be triggered earlier than 12 months beginning on the date of the signing of the contract, the taxable person may choose the date of receipt of prepayment as the time of supply and calculate the VAT on this prepayment.

If special margin schemes for travel agents and for second-hand goods, works of art, collectors’ items and antiques are applied, the above-mentioned treatment of prepayments does not apply.

**Construction work.** The time of supply for the self-construction of a building is the moment when the building begins to be used in economic activities. For an essential improvement on a building, the time of supply is the moment when the works are finished. The time of supply for construction services is when the invoice for the services is issued. If the invoice for construction services is not issued, the time of supply for the services is when the earliest of the following events occurs:

- The services are provided.
- The consideration is paid for the services provided.

**Imported goods.** The time of supply for imported goods is the date on which the goods clear customs.

**Reverse-charge services.** The time of supply for reverse-charge services is the date on which the invoice for the services is issued. If an invoice for the services is not issued, the time of supply for the services is when the earliest of the following events occurs:

- The services are provided.
- The consideration is paid for the services provided.

## F. Recovery of VAT by taxable persons

A taxable person that is registered for VAT and that performs economic activities may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services acquired in Lithuania, VAT paid on imports of goods and VAT self-assessed for reverse-charge services received.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice or on cash receipts (for small amounts of VAT).

Specific rules apply for the recovery of VAT incurred before VAT registration in Lithuania.

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

The following table provides examples of items of expenditure for which input tax is not deductible (this list is not exhaustive).

### Examples of items for which input tax is nondeductible

Purchase, lease and hire of cars

Business gifts (if amount for small gift is exceeded)

25% of VAT for entertainment expenses

VAT paid on behalf of a third party

Tourism services if special VAT scheme is applied

Second-hand and cultural value goods if special VAT scheme is applied

**Partial deduction.** Input tax directly related to making exempt supplies is not generally recoverable. If a taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as “partial deduction.”

The amount of input tax that may be deducted is generally calculated using the following two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation is done using a pro rata method, based on the value of taxable supplies made in the period, compared with the value of total supplies made.

If a taxable person is not able to directly allocate VAT to taxable and exempt supplies, a pro rata calculation may be used for all input tax incurred.

A partially exempt taxable person may provisionally use the recovery percentage calculated for the previous year. If, at the end of the year, the taxable person’s actual recovery percentage

differs by more than 5% from the provisional percentage used, an adjustment calculation must be made.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business more than one year. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial deduction recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's partial exemption recovery percentage changes during the adjustment period or if the capital goods are either used for nontaxable supplies or written off. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the taxable person's recovery percentage increased or decreased in the year, compared with the year in which the capital goods were acquired.

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

- Property immovable by its nature, including improvement of buildings or structures: adjusted for a period of 10 years
- Other types of tangible capital assets legally required to be depreciated over a period of at least four years for purposes of the taxes on profit or income: adjusted for a period of five years

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax (1/10 for immovable property and 1/5 for other tangible capital goods).

**Refunds.** If the amount of input tax that is deductible for a VAT period exceeds the amount of output tax that is chargeable in the same period, the taxable person has a VAT credit. The credit must first be used to offset other taxes payable. If the amount of VAT credit exceeds all taxes payable, the excess is refunded.

## G. Recovery of VAT by nonestablished businesses

Lithuania refunds VAT incurred by businesses that are neither established nor registered for VAT in Lithuania. Nonestablished businesses may claim Lithuanian VAT to the same extent as VAT-registered businesses.

For businesses established in the EU, refund is made under the terms of the EU Directive 2008/9/EC. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. The refund scheme for non-EU countries applies in accordance with the reciprocity principle.

To claim a refund, a nonestablished business must satisfy both of the following conditions:

- It must not have a business establishment in Lithuania through which activities are performed (or if the claimant is an individual, he or she must not be a permanent resident in Lithuania).
- It must not make taxable supplies of goods or services in Lithuania.

However, if the claimant supplies international transport services or sells goods that are taxed through the application of the reverse-charge mechanism, it may still apply for a VAT refund.

For the general VAT refund rules in the EU Directive 2008/9/EC and the EU 13th Directive refund schemes, see the chapter on the EU, page 208.

**Refund application.** The deadline for refund claims is 30 September of the year following the year when the input tax was incurred. The minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is LTL 1,380 (€400). For an annual claim, the minimum amount is LTL 170 (€49).

A taxable person that is not established in Lithuania (that is, registered in another EU member state for VAT purposes) submits the VAT refund applications to the electronic VAT refund system through the home country tax authorities.

## H. Invoicing

**VAT invoices and credit notes.** A Lithuanian taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. A VAT invoice is necessary to support a claim for input tax deduction.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply if the taxable value changes (for example, if the customer returns the goods or the supplier grants a discount) or if the VAT rate changes.

**Proof of exports and intra-Community supplies.** Supplies of exported goods or the intra-Community supply of goods are zero-rated (see the chapter on the EU, page 208). However, to qualify as VAT zero-rated, exports and intra-Community supplies must be supported by evidence that proves the goods have left Lithuania. Suitable evidence for exports includes the acknowledgment from customs of the third country, transportation documents and other documents. Special rules apply to the evidence required for excise goods. Suitable evidence for the intra-Community supply of goods includes transportation documents stamped by the receiver of the goods.

**Invoices issued in a foreign currency.** If an invoice is issued in a foreign currency, the VAT amount must be converted to Lithuanian litas. The Bank of Lithuania publishes currency conversion rates each day. In addition, the Lithuanian litas is pegged to the euro at the rate €1 = LTL 3.4528.

## I. VAT returns and payment

**VAT returns.** Lithuanian taxable persons must generally file VAT returns monthly. A taxable person whose taxable supplies did not exceed LTL 200,000 in the preceding calendar year may choose to file semiannually. Individuals generally file semiannually. However, they may request a different VAT period.

Members of international corporate groups may request to file VAT returns for a different period if the group uses accounting periods other than calendar months. However, the maximum allowable return period is 60 days. In addition, both the beginning of the first period and the end of the last period must coincide with the calendar year (that is, beginning on 1 January and ending on 31 December each year).

In general, monthly VAT returns must be filed by the 25th day of the month following the end of the tax period (other dates may apply). Payment in full is required on the same date. VAT return liabilities must be paid in Lithuanian litas.

**Penalties.** The penalty assessed for the late payment of VAT ranges from 10% to 50% of the unpaid tax. In addition, late payment interest is calculated from the day following the due date for payment up to the date on which the payment is made. Late payment interest rates vary from 0.03% to 0.05% per day during the different periods. Effective from 1 October 2010, the late payment interest rate is 0.03% per day.

## J. EU declarations

A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, and EU Sales Lists (ESLs). Penalties may be imposed for late, missing and inaccurate INTRASTAT returns and ESLs.

Effective from 1 January 2010, ESLs must be filed monthly instead of quarterly. In addition, effective from that date, taxable persons must begin to report services provided to taxable persons established in other EU countries if these services are subject to VAT in the other EU countries.

## K. Amendments to the Lithuanian VAT Law

On 20 December 2011, the Lithuanian parliament adopted amendments to the Lithuanian VAT Law that had been proposed by the Ministry of Finance of Lithuania. The amendments are effective from 1 January 2012 and 1 January 2013. The principal amendments are summarized below.

**Bad debts.** Effective from 1 January 2012, the amendments implement the concept of bad debt relief in the VAT Law.

**Invoicing.** Amendments relate to electronic invoicing and the issuance of simplified and summary invoices in particular cases. The amendments are fully harmonized with the provisions of EU Directive 2010/45/EC and will enter into effect on 1 January 2013.

**Input VAT deduction for nonregistered taxable persons.** Effective from 1 January 2013, taxable persons not identified for VAT purposes will also be able to deduct input VAT if the purchased goods and services are used for the taxable activities. Until 1 January 2013, the special guidelines and case law apply.

**Rent and/or sale (transfer) of immovable items.** Taxable persons may charge VAT on the rent and/or sale (transfer) of immovable items if they are being rented and/or sold (transferred) to diplomatic missions, consular agencies, international organizations or agencies of these bodies.

**Adjustment of input VAT deduction.** Effective from 1 January 2012, VAT payers are not required to adjust deducted input VAT amounts if a particular quantity of goods is lost as a result of circumstances not caused by the VAT payers (for example, the loss of goods or the destruction of goods after the expiration date) and if the VAT payers have documents proving the loss or destruction.



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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée (TVA)
Date introduced	5 August 1969
European Union (EU) member state	Yes
Administered by	Ministry of Finance ( <a href="http://www.aed.public.lu">http://www.aed.public.lu</a> )
VAT rates	
Standard	15%
Reduced	3%/6%/12%
Other	Exempt without credit and exempt with credit
VAT number format	LU12345678
VAT return periods	
Monthly	Turnover of more than €620,000
Quarterly	Turnover between €112,000 and €620,000
Annual	All taxable persons, including those with turnover below €112,000
Thresholds	
Registration	None
Distance selling	€100,000
Intra-Community acquisitions	€10,000
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Luxembourg by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person or nontaxable legal person (see the chapter on the EU, page 208)

- The importation of goods from outside the EU, regardless of the status of the importer

### C. Who is liable

A taxable person is any business entity or individual that carries out economic activities independently and regularly. Economic activities include activities such as making supplies of goods or services, making intra-Community acquisitions (see the chapter on the EU, page 208) and making importations in the course of a business.

Under the new rules contained in the EU VAT package, effective from 1 January 2010, for the purpose of applying the rules concerning the place of supply of services, a nontaxable legal person registered for VAT is regarded as a taxable person when it receives services from a taxable person. This new rule does not affect the liability for and payment of the tax in the case of local supplies by a Luxembourg taxable person to a Luxembourg nontaxable legal person. However, for cross-border supplies of services, this rule leads to a shifting of the tax liability to a nontaxable legal person registered for VAT, which must self-assess and pay the VAT due in its country of establishment under the reverse-charge mechanism.

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

Special rules apply to foreign or “nonestablished businesses” (see *Nonestablished businesses*).

**Group registration.** VAT grouping is not permitted under the Luxembourg VAT law. Legal entities that are closely connected must register for VAT individually.

However, nontaxable persons or taxable persons that have a VAT recovery rate of less than 30% may set up an autonomous group of persons. The services supplied by this group to its members are generally exempt from VAT.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Luxembourg. A non-established business that makes taxable transactions in Luxembourg must register for VAT, unless it is not liable for VAT (for example, because its supplies to taxable persons may be taxed using the “reverse charge” mechanism). Under the reverse charge, the recipient of the supply must account for the tax. The reverse charge does not apply to supplies of goods and services made to private persons. A nonestablished business must register for Luxembourg VAT if it makes any of the following supplies, which are all liable for Luxembourg VAT (unless an exemption applies):

- Intra-Community supplies or acquisitions
- Distance acquisitions in excess of the threshold (see the chapter on the EU, page 208)
- Supplies of goods and services to which the reverse charge does not apply

**Tax representatives.** Businesses established in the EU may register for VAT without appointing a tax representative. However, a taxable person established in the EU may appoint a tax correspondent to deal with all of its VAT matters if it chooses to do so.

Businesses established outside the EU may be required by the Luxembourg VAT authorities to provide a security deposit to secure their VAT liability. The deposit must be in the form of cash or a letter of indemnity provided by an approved bank.

The VAT registration application for nonestablished businesses must be sent to the following address:

Administration de l'Enregistrement et des Domaines  
Bureau d'imposition 10  
14, avenue de la Gare  
L-1610 Luxembourg  
BP 31  
L-2010 Luxembourg

**Late-registration penalties.** A penalty of between €50 and €5,000 may be assessed for late VAT registration.

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services and intra-Community supplies of goods (see the chapter on the EU, page 208).

In Luxembourg, the following VAT rates apply:

- Standard rate: 15%
- Reduced rates: 3%, 6% and 12%

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services (with and without VAT credit)**

Real estate transactions  
Supplies of postage and fiscal stamps at face value  
Services of doctors and dentists  
Finance  
Insurance  
Cultural and sporting services  
Welfare services  
Education

##### **Examples of goods and services taxable at 3%**

Food for human consumption, excluding alcohol  
Agricultural products  
Books, newspapers and periodicals, including e-books  
Children's shoes and clothes  
Sale of domestic accommodation

Pharmaceutical products  
Restaurant services  
Water  
Transport of persons  
Admission to cultural events

**Examples of goods and services taxable at 6%**

Liquid gas for heating, lighting and fueling engines  
Electric energy  
Plants and other floriculture products  
Hairdressing  
Repair of bicycles, shoes and other leather goods  
Cleaning of private accommodation

**Examples of goods and services taxable at 12%**

Wine of grapes with a concentration of alcohol up to 13 grades  
Solid mineral combustibles, mineral oil and wood used as fuel  
Advertising brochures and other prints  
Steam, heating and cooling  
Tailored clothes for men  
Custody and management of securities  
Management of credits and credit guarantees by an entity other than the entity that granted the credit

**E. Time of supply**

The time when VAT becomes due (or the chargeable event occurs) is called the “time of supply” or “tax point.” For supplies of goods, the basic time of supply is when the goods are delivered and the power of disposal is transferred. The basic time of supply for services is when the services are completed.

The actual time of supply of goods or services, with the exception of services subject to VAT in the recipient country, may be delayed by the issuance of an invoice (when the issuance of an invoice is mandatory), but no later than the 15th day of the month following the month in which the basic time of supply occurs. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued. Specific rules apply to continuous supplies of services. For supplies of services subject to VAT in the recipient country, the time of supply is when the chargeable event occurs (that is, when the supply is completed).

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition takes place. If the supplier issues an invoice or a document serving as an invoice (other than relating to an installment) before such date, the time of supply is when the invoice is issued.

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

**F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxable

person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies of goods and services made.

Input tax includes VAT charged on goods and services supplied within Luxembourg, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services (see the chapter on the EU, page 208).

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

**Nondeductible input tax.** In Luxembourg, input tax may be deducted in full for all items of business expenditure. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, the private use of an entrepreneur's home telephone or goods acquired for private use).

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

#### **Examples of items for which input tax is nondeductible**

Private expenditure

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

Purchase, hire, lease, maintenance and fuel for cars, vans and trucks

Parking

Business gifts

Attending conferences, seminars and training courses

Business entertainment

Business use of home telephone

Advertising

Transport

**Partial exemption.** In general, input tax directly related to making exempt supplies is not recoverable. If a Luxembourg taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption." Exempt with credit supplies are treated as taxable supplies for these purposes.

In Luxembourg, the amount of input tax that a partially exempt business may recover may be calculated by using the general pro rata method or a special deduction method.

The general pro rata method calculates the amount of recoverable VAT based on the ratio of turnover that entitles the taxable person to deduct input tax (that is, taxable turnover and exempt turnover with credit) to total turnover. Incidental supplies of capital goods and incidental real estate and financial transactions are excluded from turnover for these purposes. The recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 77.2% is rounded up to 78%).

Alternatively, the Luxembourg VAT authorities may authorize a taxable person to use a special deduction method based on the direct allocation of all or certain goods and services used in

making taxable and exempt supplies. The VAT authorities may direct a taxable person to use this method. The administration may also authorize or direct the use of a special deduction method for each sector of a single business or for certain sectors of the business.

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

In Luxembourg, capital goods are defined as tangible, movable or immovable goods that are subject to depreciation under income tax law. They also include work that qualifies as investment expenditure under the income tax law.

The capital goods adjustment applies to the following assets for the number of years indicated:

- Immovable capital assets (primarily, buildings): adjusted for a period of 10 years
- Movable capital assets: adjusted for a period of five years

For movable goods, the adjustment period starts on 1 January of the year in which the goods are manufactured or purchased. If the goods are first used in a later year, the period begins on 1 January of the year in which the goods are used for the first time. The adjustment is applied each year to 1/5 of the total input tax, unless the goods are sold. If the goods are sold, the adjustment is made once for the total remaining period. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired (or used for the first time).

For immovable goods, the adjustment period starts on 1 January of the year in which the acquisition takes place or construction or refurbishment work ends or on 1 January of the year in which the immovable property is used for the first time if the year of first use differs from the year of acquisition or the year in which the construction or refurbishment work is finalized. The adjustment is applied each year to 1/10 of the total input tax, unless the immovable property is sold or if the VAT deduction depends on the rental status of the immovable property. In such cases, the adjustment is made once for the total remaining period. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the immovable property was acquired, constructed or refurbished.

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. This input tax credit may usually be carried forward to the next reporting period. If the credit exceeds €1,200, a refund may be requested.

## G. Recovery of VAT by nonestablished businesses

Luxembourg refunds VAT incurred by businesses that are neither deemed to be established in Luxembourg nor registered for VAT there. A nonestablished business may claim Luxembourg VAT to the same extent as a VAT-registered business. However, VAT may not be recovered on private expenditure.

For businesses established in the EU, a refund is made under the terms of EU Directive 2008/9/EC. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. Luxembourg does not exclude any non-EU country from the refund scheme (no reciprocity required).

For the general VAT refund rules of the EU Directive 2008/9/EC and the EU 13th Directive refund schemes, see the chapter on the EU, page 208.

**Refund application.** The deadline for submitting EU Directive 2008/9/EC refund claims is 30 September of the calendar year following the refund period.

Claims must be submitted in English, French or German.

For EU Directive 2008/9/EC claims, the minimum claim period is three months, and the maximum period is one year. The minimum claim for a period of less than a year is €400. For an annual claim, the minimum amount is €50.

Applications for refunds of Luxembourg VAT under EU Directive 2008/9/EC must be submitted to the EU member state in which the claimant is established via the electronic portal set up by that EU member state.

The deadline for EU 13th Directive refund claims is 30 June of the year following the calendar year in which the tax was incurred.

Claims must be submitted in English, French or German. The application for refund must be accompanied by the appropriate documentation.

For EU 13th Directive claims, the minimum claim period is one year. The minimum claim amount is €250.

Applications for refunds of Luxembourg VAT under the EU 13th Directive must be sent to the following address:

Administration de l'Enregistrement et des Domaines  
Bureau d'imposition XI  
Remboursements et franchises  
67-69, Rue Verte, L-2667 Luxembourg  
BP 31  
L-2010 Luxembourg

**Repayment interest.** The Luxembourg VAT authorities do not pay interest on late refunds of VAT made under the EU 13th Directive scheme.

## H. Invoicing

**VAT invoices and credit notes.** A Luxembourg taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices

are not automatically required for retail transactions, unless the supply is a distance sale or the customer requests an invoice.

A VAT invoice is required to support a claim for input tax deduction or a refund under the EU Directive 2008/9/EC or EU 13th Directive refund schemes (see the chapter on the EU, page 208).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. The document must be marked “credit note.” It must be cross-referenced to the original VAT invoice and contain the same information.

**Proof of exports and intra-Community supplies.** Luxembourg VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence proving that the goods have left Luxembourg. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by customs, showing the supplier as the exporter. The invoice must include the following language: “Not subject to Luxembourg VAT, article 43, 1, a of the Luxembourg VAT Law — export.”
- For an intra-Community supply, a range of commercial documentation such as purchase orders, tax invoices, transport documentation, proof of payment and contracts. The invoice must include the following language: “Not subject to Luxembourg VAT, article 43, 1, d of the Luxembourg VAT Law — intra-Community supplies of goods.”

**Foreign-currency invoices.** If an invoice is issued in a foreign currency, the tax and values for VAT purposes must be converted to euros (€) using the official rate in force on the date of the invoice, published by an approved bank.

## I. VAT returns and payment

**VAT returns.** In principle, Luxembourg VAT returns must be filed on a monthly basis. However, the authorities can allow taxable persons whose annual turnover does not exceed €112,000 to file only a single annual return for the calendar year. The due date is 1 March of the following year.

Taxable persons whose annual turnover is between €112,000 and €620,000 may be allowed to submit periodic returns quarterly. In addition, they must file a recapitulative annual return. The due date for the periodic returns is the 15th day of the month following the end of the return period. The due date for the annual return is 1 May of the following year.

Taxable persons whose annual turnover exceeds €620,000 must submit periodic returns monthly, plus a recapitulative annual return. The due date for the periodic returns is the 15th day of the month following the end of the return period. The due date for the annual return is 1 May of the following year.

Filing extensions are automatically granted for both the periodic (two months) and the annual returns (eight months). However, these extensions apply exclusively to the filing of the returns. As a result, provisional VAT payments can be requested within the legal deadline.



Return liabilities must be paid in euros.

**Penalties.** Penalties are assessed for the late payment or late submission of a VAT return in the following amounts:

- For monthly or quarterly returns, the fine may vary from €50 to €5,000.
- For annual returns, the fine may vary from €50 to €5,000.

## J. EU declarations

**INTRASTAT.** A Luxembourg taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT returns, if the value of its sales or purchases of goods exceeds certain thresholds. Separate reports are required for intra-Community acquisitions (INTRASTAT Arrivals) and for intra-Community supplies (INTRASTAT Dispatches). Electronic submissions via email are allowed.

The threshold for INTRASTAT Arrivals is €200,000.

The threshold for INTRASTAT Dispatches is €150,000.

Luxembourg taxable persons must complete INTRASTAT declarations in euros.

INTRASTAT returns are due monthly by the 6th day of the month following the period (unless they are submitted electronically or on floppy disk, in which case a 10-day filing extension is allowed).

A penalty may be imposed for late submission or for missing or inaccurate declarations. The fine is generally €500 (although the statistical authorities may impose a penalty of between €251 and €2,500).

**EU Sales Lists.** If a Luxembourg VAT taxable person performs intra-Community supplies of goods, it must submit an EU Sales List (ESL) for goods.

In principle, ESLs for goods must be submitted by the 15th day of the month following the end of the month. However, ESLs for goods may be submitted quarterly if the threshold of €50,000 of intra-Community supplies of goods to other EU member states is not exceeded during the concerned quarter or during the four preceding quarters. For a quarterly filing, the ESLs for goods must be submitted by the 15th day of the month following the concerned quarter.

A Luxembourg VAT taxable person must also file an ESL for services rendered. This ESL must provide information regarding services rendered to VAT taxable and nontaxable persons who satisfy the following conditions:

- They are registered for VAT in another EU member state, and the services are rendered in the other EU member state.
- The service recipients are not exempt from VAT in the EU member state where the services are deemed to take place.
- The recipients are liable to deal with the VAT in the other EU member state.

ESLs for services must be filed on a monthly basis by the 15th day of each month. VAT taxable persons may file the lists on a quarterly basis by the 15th day of each quarter.

If no transactions reportable in ESLs are performed, no ESLs need to be filed for the concerned month or quarter.

A penalty may be imposed for late, missing or inaccurate ESLs. The penalty may vary from €50 to €5,000.

## Macedonia, Former Yugoslav Republic of

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Danok na dodadena vrednost
Date introduced	1 April 2000
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.finance.gov.mk">http://www.finance.gov.mk</a> )
VAT rates	
Standard	18%
Reduced	5%
Other	Zero-rated and exempt
VAT number format	MK 1 2 3 4 5 6 7 8 9 10 11 12 13
VAT return periods	
Monthly	Turnover in excess of MKD 25 million in preceding calendar year
Quarterly	Turnover of MKD 25 million or less in preceding calendar year
Annually	Voluntary registration
Thresholds	
Registration	MKD 2 million
Recovery of VAT by nonestablished businesses	Yes (subject to reciprocity)

### B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services made in Macedonia by a taxpayer within the scope of its business activity
- The importation of goods into Macedonia (other than exempt importations)

- Reverse-charge supplies by foreign legal entities to Macedonian legal entities

### C. Who is liable

A taxpayer is a person that permanently or temporarily performs an independent business activity, regardless of the purposes of and the results from such business activity.

**Tax registration.** Taxpayers must register for VAT when their total supplies in a year exceed MKD 2 million. Also, they must register if, at the beginning of a business activity, they project the making of total annual supplies exceeding MKD 2 million. Taxpayers may voluntarily register for VAT at the beginning of each calendar year or at the beginning of their business activity.

**Group registration.** The Macedonian VAT law allows VAT group registration. Several VAT-registered entities may decide to be registered as a single VAT-registered taxpayer if they have a proprietary, organizational or managerial relationship. In addition, if the tax authorities detect violation of tax principles or the possibility for violation of such principles as a result of proprietary, organizational or managerial relationship among particular entities registered as separate VAT taxpayers, they can issue a decision ordering the entities to register as a single taxpayer.

**Foreign legal entities (nonestablished businesses).** Foreign traders may not have a VAT registration number. If a supply is made by a taxpayer that does not have headquarters or a branch office in Macedonia, the VAT reverse-charge mechanism applies.

**Late-registration penalties.** For late registration, a legal entity is fined €1,200, and the responsible person at the legal entity is fined €500.

For failure to register, the fine ranges from €2,000 to €2,500 for the legal entity and from €500 to €1,000 for the legal representative.

### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services and imports that are subject to VAT (either at the standard rate of 18% or the reduced rate of 5%). The term “exempt supplies” refers to supplies of goods and services that are not subject to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. In Macedonia, the VAT rates are the standard rate of 18% and the reduced rate of 5%. The standard rate of VAT applies to all supplies of goods or services and imports, unless a specific measure allows a reduced rate or an exemption.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the 5% rate of VAT (these lists are not exhaustive).

#### Examples of exempt supplies of goods and services (without credit)

Rental of residential buildings and apartments that are used for housing

Banking and financial services

Insurance and reinsurance

Games of chance

Educational services

**Examples of exempt supplies of goods and services (with credit [0% rate])**

International air transport of passengers

Supply of precious metals for the central bank

Supply, repair and maintenance, chartering and leasing of aircraft

**Examples of supplies of goods and services taxable at 5%**

Potable water from public water-supply entities

Food products

Computers

Pharmaceuticals and medical devices

Raw oil for production of food for human consumption

First sale of new residential buildings (within the first five years)

Services provided by commercial tourist facilities (hotels, motels and similar facilities)

### **E. Time of supply**

The moment when VAT becomes due is called the “time of supply” or the “tax point.” The tax point is the earlier of the following two dates:

- The date on which goods are dispatched (transferred) and services are completely delivered
- The date on which the payment is received if the payment is made with respect to future supplies of goods or rendering of services

In the case of periodical or continuous supplies for which subsequent payments are prescribed, the tax point is the date on which the invoice is issued for the relevant period or, if earlier, the date on which the payment for the relevant period is received.

**Reverse-charge services.** Reverse-charge VAT applies to amounts charged for goods or services supplied by foreign legal entities to Macedonian legal entities. Under the reverse-charge mechanism, the recipient of the goods or services bears the responsibility for the calculation of VAT, the submission of a VAT tax return, the payment of tax and the payment of interest in the event of a late payment.

### **F. Recovery of VAT by taxpayers**

A taxpayer may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. A taxpayer generally recovers input tax by deducting it from output VAT. The difference between the output and input VAT is refunded to the taxpayer based on a written claim stated in the taxpayer’s tax return.

Input tax includes VAT charged on goods and services supplied in Macedonia, VAT paid on imports of goods, and VAT self-assessed under the reverse-charge mechanism with respect to goods or services supplied by nonestablished entities.

VAT is recoverable for supplies provided to taxpayers by other taxpayers if a valid invoice or a customs declaration containing

a separate statement of the tax collected on the import is issued and if such document is recorded in the accounting books of the taxpayer.

**Non deductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

The following tables provide examples of expenses for which input tax is not deductible and examples of expenses for which input tax is deductible if made for business purposes (these lists are not exhaustive).

#### **Examples of items for which input tax is not deductible**

Representation expenses

Audio and video devices

Hotels

Restaurant meals

#### **Examples of items for which input tax is deductible**

Advertising

Consultancy services

Telecommunication services

Equipment

**Partial exemption.** Input tax directly related to taxable supplies is fully recoverable, while input tax directly related to exempt supplies is not recoverable. If the domestically supplied or imported goods or services are used by the taxpayer to make both supplies with the right to deduct input VAT and exempt supplies without the right to deduct input VAT, such person may deduct only the portion of the input VAT corresponding on a pro rata basis to the supplies giving rise to an input VAT deduction.

**Refunds.** If the amount of input tax recoverable in a tax period exceeds the amount of output tax in that period, the taxable person earns an input tax credit. In general, the input tax credit is carried forward to offset output tax in the following tax period. However, a taxable person may claim a refund of the input tax credit in the VAT return for the relevant tax period. The refund of the difference between the input and output tax is made within 30 days after the date of the submission of the tax return.

### **G. Recovery of VAT by nonestablished businesses**

On the condition of reciprocity Macedonia refunds VAT incurred by businesses that do not have a headquarters or a branch office in the country and that satisfy the following additional conditions:

- They do not make any supplies in the country.
- They do not owe any outstanding VAT.

**Refund application.** The deadline for refund claims is 30 June of the year following the calendar year in which the tax becomes chargeable. The application for refund must be submitted to the Macedonian tax authorities and must be accompanied by the appropriate documentation.

A refund application must be processed within six months after the date of submission of the application and supporting documents.

The claim period varies between one month and several consecutive months in one calendar year. The minimum claim for these periods is MKD 30,000. In the claims for the last month of the calendar year, input taxes from previous claim periods may also be taken into account. The minimum claim for this period is MKD 15,000.

Claims are paid in domestic currency (MKD) into a bank account opened by the applicant in Macedonia.

## H. Invoicing

**VAT invoices and credit notes.** A Macedonian taxpayer must issue invoices for all of its taxable supplies. A document qualifies as a valid invoice if it complies with the requirements set out in the Macedonian VAT Act. The invoice must be issued within five working days after the date of the supply.

If an invoice is issued both for taxable supplies and nontaxable supplies, each supply must be stated separately. If a nontaxable supply is made, it must be stated on the invoice that “The Value Added Tax is not calculated.”

A taxpayer delivering taxable goods to recipients of goods or services who are not taxpayers (end consumers) must record the supply through a cash register and issue a receipt, regardless of whether the recipient of such goods or services requests a receipt.

A credit note may be used to reduce VAT charged and claimed back on a supply. A credit note must be cross-referenced to the original invoice. However, no official rules have been issued with respect to credit notes.

**Foreign-currency invoices.** In general, VAT invoices must be issued in domestic currency (denars [MKD]). If a VAT invoice is issued in a foreign currency, all values required for VAT purposes must be converted into denars for tax purposes, using the rate published by the National Bank of Macedonia on the date of the invoice.

## I. VAT returns and payment

**VAT returns.** The tax period is the calendar month if the total turnover in the preceding calendar year exceeded MKD 25 million. Taxpayers that had total turnover in the preceding year of less than MKD 25 million must file VAT returns and pay VAT quarterly. Newly registered taxpayers projecting an annual turnover of more than MKD 2 million must register for VAT and make quarterly VAT return filings. Taxpayers that are registered on a voluntary basis and do not expect to exceed the mandatory registration threshold of MKD 2 million may apply for monthly VAT return filing if they plan to invest in the year more than MKD 100 million. In this case, following an approval of the tax authorities, they file VAT returns monthly.

Taxpayers must calculate the VAT for the relevant tax period for all supplies made that are subject to VAT. Taxpayers must submit a tax return within 25 days after the end of the relevant tax period.

Taxpayers that make a late VAT payment are liable to pay interest on the tax due at a rate of 0.03% for each day of delay.

**Penalties.** A legal entity is fined the MKD equivalent of €1,200 for late VAT registration and of €1,500 for a late VAT return filing and for a late issuance of an invoice.

Failure to register or file a VAT return is subject to fines ranging from €2,000 to €2,500. The same penalties apply if the legal entity fails to pay the VAT into the authorities' bank account into which registered VAT payers must pay their VAT or if the legal entity makes inaccurate VAT accounting entries. Separate fines apply to the legal representative of the company. Criminal sanctions apply if the offenses are intentional.

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## Malaysia

(Country code 60)

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### A. At a glance

Name of the taxes	Sales tax and service tax
Dates introduced	
Sales tax	29 February 1972
Service tax	1 March 1975
Administered by	Royal Malaysia Customs Department ( <a href="http://www.customs.gov.my">http://www.customs.gov.my</a> )
Tax rates	
Sales tax	
Standard	10%
Other	5% and several specific rates for certain petroleum products
Service tax	6%
Tax return periods	
Sales tax	Two months
Service tax	Two months
Thresholds	
Sales tax registration	None (manufacturers of taxable goods with annual sales turnover not exceeding RM 100,000 may apply for exemption)

Service tax registration	None, or annual sales turnover exceeding RM 150,000, RM 300,000 or RM 3 million (depending on the types of taxable services provided)
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## B. Scope of the taxes

**Sales tax.** Sales tax is a single-stage tax, applied to sales of locally manufactured taxable goods as well as to taxable goods imported for domestic consumption.

All taxable goods manufactured in, or imported into, Malaysia are subject to sales tax, unless they are specifically exempted by law. However, sales tax does not apply to goods manufactured in, or imported into, Labuan, Langkawi, Tioman, the (Inter-Country) Joint Development Area, free zones, licensed warehouses or licensed manufacturing warehouses.

**Service tax.** Service tax is a single-stage tax applied to specified taxable services. Services that are not included in the prescribed list are not taxable. Nine major groupings of taxable services are currently included in the prescribed list. Taxable services include, but are not limited to, telecommunication services, employment services, consultancy services, management services, legal services, accounting services, advertising services, engineering services, surveying services, architectural services, insurance services and car hire services.

Service tax does not apply in Labuan, Langkawi, Tioman, the (Inter-Country) Joint Development Area and free zones.

**Proposed changes.** Malaysia plans to carry out a major indirect tax reform. It is proposed that a new Goods and Services Tax (GST) system replace the current sales tax and service tax system. It appears that the new Malaysian GST will operate similarly to other value-added tax (VAT) and GST systems around the world. It is proposed that the standard GST rate will be 4% and that a zero rate will apply to exports and some goods, such as basic foodstuffs. GST exempt status is expected to apply to most financial services, including Islamic financial products, life insurance and investment linked insurance, the lease, rental or sale of residential real estate, mass domestic public education services and health services. As a result, no output tax will apply and correspondingly, no entitlement to input tax will exist. The Malaysia government has not yet announced the date of introduction of the GST.

## C. Who is liable

**Sales tax.** Any person that manufactures taxable goods in the course of a business must apply for a sales tax license. The license must be displayed at the licensed manufacturer's principal place of business. If the licensed manufacturer carries on business in more than one location, each manufacturing site must be covered by the license and a copy of the license must be displayed at each site.

**Exemption from sales tax licensing.** A manufacturer of taxable goods whose sales turnover did not exceed RM 100,000 in the preceding 12 months and whose sales are not expected to exceed



RM 100,000 in the next 12 months may apply for a certificate of exemption from sales tax licensing.

If a business exclusively manufactures goods that are exempt from sales tax by law, it is relieved from the licensing requirement.

Certain manufacturing operations are exempt from the licensing requirement. These activities include, but are not limited to, the following:

- Developing and printing photographs
- Preparing meals
- Engraving personal articles
- Installing goods in buildings
- Manufacturing ready-mixed concrete
- Preparing materials for road-making
- Photocopying
- Repacking bulk goods into smaller packages (by a person other than a licensed manufacturer)
- Repairing used goods
- Eyesight testing, prescribing lenses and fitting lenses into frames
- Varnishing or polishing finished pieces of furniture (by a person other than a licensed manufacturer)
- Personal tailoring services (excluding manufacturing garments)
- Installing air conditioning in a motor vehicle
- Manufacturing jewelry
- Extracting gold from mineral ores

**Importers.** An importer of taxable goods does not need to apply for a sales tax license. Sales tax on imported goods is assessed and collected when the goods are cleared by the Royal Malaysia Customs Department, together with any customs duties payable.

**Penalties for failing to obtain a sales tax license.** A manufacturer of taxable goods that fails to apply for a sales tax license is liable for a penalty, which may include imprisonment for a term not exceeding 12 months, a fine not exceeding RM 5,000 or both.

**Service tax.** Subject to the relevant registration thresholds provided in the service tax law, any person that carries on a business of providing taxable services must apply for a service tax license.

The following tables list examples of businesses subject to the existing four service tax registration thresholds (these lists are not exhaustive).

#### **Examples of businesses with nil threshold**

- Insurance companies
- Telecommunication services' providers
- Forwarding agents
- Night clubs, dance halls, cabarets, approved health centers and massage parlors, public houses and beer houses
- Lawyers\*
- Public accountants\*
- Engineers\*
- Architects\*
- Surveyors\*
- Consultancy services' providers\*
- Management services' providers\*

\* The registration threshold of RM 150,000 for these service providers was abolished, effective from 1 January 2008. Such service providers are required to be licensed under the Service Tax Act, regardless of the amount of sales turnover derived from the rendering of their taxable services.

#### **Examples of businesses with RM 150,000 threshold**

Car park operators  
 Courier services' providers  
 Motor vehicles services or repair centers  
 Security services' providers

#### **Examples of businesses with RM 300,000 threshold**

Private clubs  
 Golf course and golf driving range operators  
 Private hospitals  
 Advertising services' providers

#### **Examples of businesses with RM 3 million threshold**

Restaurants\*  
 Food court operators\*

\* The registration threshold of RM 300,000 for restaurants located outside hotels (including food court operators) is raised to RM 3 million, effective from 1 July 2008. Existing service tax licensees may choose to cancel their license if they have not reached the new registration threshold.

The license must be displayed at the licensed service provider's principal place of business. If the licensed service provider carries on business in more than one location located within the same tax district, each business site must be covered by the license, and a copy of the license must be displayed at each site. If the licensed service provider carries on business in more than one location located in different tax districts, each business site must be licensed separately for service tax. However, if the service provider maintains a centralized billing or accounting system, a single service tax license may be obtained for all of its premises.

**Voluntary service tax licensing.** Any person that carries on a business of providing taxable services and that has not yet reached the relevant registration threshold provided in the service tax law may apply to be licensed voluntarily.

**Penalties for failing to obtain a service tax license.** A taxable person that fails to apply for a service tax license is liable for a penalty, which may include imprisonment for a term not exceeding 24 months, a fine not exceeding RM 5,000 or both.

## **D. Tax rates**

**Sales tax.** The term "taxable goods" refers to locally manufactured goods as well as to imported goods that are not exempt under the sales tax law.

The rates of sales tax are 5% and 10%. The 10% rate applies to most taxable goods. The reduced rate of 5% applies to certain nonessential goods which include, among others, foodstuffs and building materials. Specific rates are imposed on certain petroleum products.

**Service tax.** Service tax is imposed at a rate of 6% on the price, charge or premium for the taxable service. Accounting, engineering, legal, architectural, surveying, management and consultancy

services provided by one company to another company within the same commercial group are not subject to service tax if certain conditions are satisfied.

### **E. Time of supply**

**Sales tax.** Sales tax is due on goods manufactured in Malaysia when the goods are sold, used or disposed of by a taxable person. The definition of “disposal” includes the manufacturer diverting the goods to its own use, destroying the goods, giving away or donating the goods, and making a supply of manufactured goods for no consideration.

**Imported goods.** Sales tax is due for imported goods at the time the goods are cleared by the Royal Malaysia Customs Department or removed from a customs bonded warehouse.

**Service tax.** Service tax is due when payment is received for taxable services rendered. If payment is not received within 12 months after the date of issuance of an invoice, the tax is due on the day immediately after the expiration of the 12-month period.

### **F. Invoicing**

**Sales tax invoices.** A licensed manufacturer is required to issue a sales tax invoice for the sale of taxable goods. The invoice must be in Malay or in English. The invoice must state the amount of sales tax separately from the price for the goods.

**Proof of exports.** Exports of goods are exempt from sales tax. To qualify for exemption, it must be proven that the goods have been exported from Malaysia. Acceptable documentation includes a customs export declaration and an export sales invoice issued by a licensed manufacturer.

**Service tax invoices.** A licensed service provider is required to issue a service tax invoice for the sale of taxable services. The invoice must be in Malay or in English. The invoice must state the amount of service tax separately from the price for the taxable service.

### **G. Tax returns and payment**

**Sales tax.** Sales tax returns are generally completed for two-month periods. The due date for the return and payment is the 28th day of the month following the end of the return (taxable) period.

Taxable persons may agree with the tax authorities on different sales tax accounting periods. A taxable person may also pay outstanding sales tax, including a late payment penalty, in installments, with the prior agreement of the tax authorities.

**Sales tax penalties.** A penalty of 10% of the tax due is assessed for the late payment of sales tax. The amount of the penalty is increased by an additional 10% for every 30-day period that the tax remains unpaid, up to a maximum penalty of 50%.

Penalties are imposed for a range of offenses, including the failure to apply for a sales tax license, the failure to charge sales tax, errors in issuing invoices and the failure to maintain proper accounting records. On conviction, an offender may be subject to an imprisonment term not exceeding 12 months, a fine not exceeding RM 5,000 or both.

**Service tax.** Service tax returns are completed for two-month periods. The due date for the return and payment is the 28th day of the month following the end of the return (taxable) period.

A taxable person may pay outstanding service tax, including a late payment penalty, in installments, with the prior agreement of the tax authorities.

**Service tax penalties.** A penalty of 10% of the tax due is assessed for the late payment of service tax. The amount of the penalty is increased by an additional 10% for every 30-day period that the tax remains unpaid, up to a maximum penalty of 50%.

Penalties are imposed for a range of offenses, including the failure to apply for a service tax license, the failure to charge service tax, errors in issuing invoices and the failure to maintain proper accounting records. On conviction, the offender may be subject to an imprisonment term not exceeding 24 months, a fine not exceeding RM 5,000 or both.

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	It-taxxa fuq il-valur mizjud
Date introduced	1 January 1999
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	Ministry of Finance ( <a href="http://www.vat.gov.mt">http://www.vat.gov.mt</a> )
VAT rates	
Standard	18%
Reduced	5% and 7%
Other	Exempt with credit and exempt without credit
VAT number format	MT12345678
VAT return periods	Quarterly (in special cases, the Commissioner of VAT may prescribe a period of more or less than three months)

Thresholds	
Registration	€7,000
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and the rendering of services in Malta by a taxable person for consideration, in the course or furtherance of an economic activity
- Intra-Community acquisition of goods (subject to certain conditions; see the chapter on the EU, page 208)
- Intra-Community acquisitions of new means of transport (see the chapter on the EU, page 208)
- Intra-Community acquisitions of excise goods
- The importation of goods into Malta (other than exempt importations)

## C. Who is liable

A taxable person is any person that carries on an economic activity, regardless of the purpose or result of that activity.

Until 31 December 2010, under Article 10 of the VAT Act, no registration threshold applied. Effective from 1 January 2011, the VAT registration threshold is €7,000. Any person or business entity that carries on an economic activity in Malta and that has turnover exceeding this threshold must register for VAT within 30 days.

**Group registration.** VAT group registration is not allowed under the Maltese VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses and tax representatives.** A “nonestablished business” may be any of the following persons:

- A taxable person that has not established its economic activity
- A taxable person that has no fixed place of establishment in Malta
- A physical person who has not established his or her economic activity in Malta
- A physical person who does not have a fixed place of establishment in Malta, has no permanent address in Malta or does not usually reside in Malta

A nonestablished business that makes supplies in Malta may appoint a tax representative or may be required by the Maltese tax authorities (the Commissioner of VAT) to do so. The Commissioner of VAT may designate, by means of a written notice, a person resident in Malta with whom the nonestablished business has a business relationship to be the tax representative of the nonestablished business, unless the nonestablished business has already designated a representative. The representative must be nominated in writing to the VAT authorities. A tax representative is jointly and severally liable with the person represented.

**Late-registration penalties.** Penalties are assessed for late registration or for failure to keep records or submit returns. A penalty for late registration is assessed on an amount equal to the higher of the following:

- 1% of the excess, if any, of the output tax due over input tax (and any allowable deductions) for the first VAT period following registration
- €20 for every month or part of a month that the registration is late

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT (at the standard rate of 18% or the reduced rates of 5% or 7%). The term “exempt supplies” refers to supplies of goods and services not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services to third territories (that is, territories outside the EU).

In Malta, the following three VAT rates apply:

- Standard rate: 18%
- Reduced rates: 5% and 7%

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services (without credit)**

Letting and transfer of immovable property  
 Health and welfare  
 Education  
 Postal services  
 Banking and insurance  
 Grant and negotiation of credit and the management of credit by the grantor  
 Supply by nonprofit organizations of approved services related to sports or physical recreation  
 Sports  
 Lotteries  
 Broadcasting  
 Water

##### **Examples of exempt with credit supplies of goods and services (0% rate)**

Food, excluding catering  
 Pharmaceutical goods  
 International transport  
 Exports of goods and related services  
 Supplies to ships  
 Supply of gold to the Central Bank of Malta

##### **Examples of supplies of goods and services taxable at 5%**

Confectionery  
 Medical equipment and accessories  
 Printed matter  
 Supply of electricity

### Examples of goods and services taxable at 7%

Tourist accommodation

#### E. Time of supply

The time when VAT becomes due is referred to as the “date when tax on supplies becomes chargeable” or “tax point.”

The basic tax point for a supply of goods is the earlier of the date on which the goods are delivered or otherwise made available to the recipient of the supply or the date on which payment is made. The basic tax point for a supply of services is the earlier of the date on which the services are performed or the date on which payment is made.

If a VAT invoice is issued before the basic tax point or within 30 days after the supply, the date on which the VAT invoice is issued becomes the actual tax point. The actual tax point overrides the basic tax point.

#### F. Recovery of VAT by taxable persons

A VAT-registered person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is recovered by deducting the amount from output tax, which is VAT charged on supplies made in the same period.

Input tax includes VAT charged on goods and services supplied in Malta, VAT paid on imports of goods and VAT self-assessed for reverse-charge services received from outside Malta.

For a claim for input tax to be valid, the following conditions must be met:

- The claim must be supported by a tax invoice.
- The person claiming the expense must have the document in its possession, and produce it to the Commissioner of VAT if and when requested.
- The amount of tax claimed must be properly accounted for in the records held by the claimant.
- The VAT is recoverable to the extent allowable by the VAT Act.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

#### Examples of items for which input tax is nondeductible

Nonbusiness expenditure

Purchase, repair and maintenance, lease, fuel and hire of vehicles (excluding commercial vehicles)

Business and employee entertainment

Tobacco and alcohol

Works of art and antiques

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

All other business expenditure

**Partial attribution (partial exemption).** Input tax directly related to the provision of exempt without credit supplies is generally not recoverable. If a registered person makes both exempt without credit supplies and taxable supplies, the person may not deduct input tax in full. This situation is referred to as “partial attribution” or “partial exemption.” The amount of input tax that may be deducted from output tax by a taxable person making exempt without credit supplies is based on the percentage of taxable supplies made compared with total supplies made. Attribution is based on a provisional rate in the first year (Year 1) and is then adjusted to a definitive rate, which is based on the level of taxable supplies made compared with total supplies made on an annual basis. The definitive rate (as amended at the end of the first year) is used as the provisional rate in the second year (Year 2).

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

An adjustment may be necessary to the initial VAT deduction with respect to capital goods and immovable property, resulting from either changes in the circumstances of the business or to changes in the proportion of use of the asset in the business. In the event of such change in circumstances, an adjustment to the initial deduction is made. The adjustment period is 5 years with respect to capital goods other than immovable property and 20 years with respect to immovable property.

**Refunds.** If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that period, the taxable person ends up in an excess credit position. A taxable person is entitled to a refund of such excess credit if the excess credit is not set off against any VAT due in the subsequent tax period. The refund must be paid within five months after either the due date of the VAT return or the date on which the return is submitted, whichever is later.

The VAT authorities pay interest on VAT refunds that are paid late at a rate of 0.75% per month or part of a month. Interest is payable for the period beginning with the date on which the refund becomes payable and ending on the date on which the refund is paid.

**G. Recovery of VAT by nonestablished businesses**

The VAT authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Malta, under the terms of Council Directive 2008/9/EC and the EU 13th Directive (see the chapter on the EU, page 208). For businesses established in the EU, refund is made under the terms of Council Directive



2008/9/EC. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive.

For the general VAT refund rules under Council Directive 2008/9/EC and the EU 13th Directive refund schemes, see the chapter on the EU, page 208.

Claims for refunds by persons established in other EU member states must be made online in accordance with Council Directive 2008/09/EC. Claims for refund under the EU 13th Directive must be made on an appropriate form and sent to the following address:

Commissioner of VAT  
Value Added Tax Department  
Centre Point Building  
Ta' Paris Road  
Birkirkara BKR 4633  
Malta

## H. Invoicing

**VAT invoices and credit notes.** Registered persons must generally provide tax invoices for all taxable supplies of goods and services made and for exports. Fiscal receipts must be issued for retail sales. A purchaser who receives a fiscal receipt for a supply must retain it for a period of at least 24 hours because the purchaser may be required to produce the receipt for inspection by the VAT authorities.

A credit note may be used to reduce VAT charged and reclaimed on a supply. A credit note must be cross-referenced to the original invoice.

**Proof of exports.** VAT is not chargeable on exports of goods to third territories. An export supply must be accompanied by evidence that confirms the goods have left Malta. Suitable evidence includes the stamped customs exportation documentation.

**Foreign-currency invoices.** Invoices may only be issued in euros. Foreign currency may only be quoted as a reference. The selling rate quoted by the European Central Bank on the date on which the supply takes place must be used.

## I. VAT returns and payment

**VAT returns.** In most cases, registered persons file VAT returns quarterly. VAT returns must be filed within one and a half months after the end of the tax period to which they relate. Payment in full is required on the same date. Return liabilities must be paid in euro.

Recently Maltese VAT law was amended to ensure that businesses sending their VAT declarations and making payments online are not charged interest and administrative fines if the declaration or payment is sent within seven days after the current deadline.

**Penalties.** Interest is assessed on VAT paid late. The current rate is 0.75% for each month or part of a month. The interest rate may change.

A penalty for default in submitting a tax return equals the greater of the following two amounts:

- 1% of the excess, if any, of the output tax over input tax for the period (disregarding any excess credit brought forward from a previous tax period and any allowable deductions)
- €20 for every month or part of a month that the return is late

For the filing of a tax return containing errors that are discovered during a VAT inspection, a penalty equal to the sum of the following is imposed:

- 20% of the excess, if any, of the correct amount of output tax over the output tax declared in the return
- 20% of the excess, if any, of the deductions declared in the return over the correct amount of the deductions

If an error is voluntarily disclosed before it is discovered by the VAT Department, the penalty is reduced to 10%. This reduction also applies if the person involved cooperates with the Commissioner of VAT, accepts an agreement, and pays the amounts due within one month after signing the agreement.

## J. EU declarations

**INTRASTAT and EU Sales Lists.** A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT returns and EU Sales Lists (ESLs). Penalties may be imposed for late, missing or inaccurate INTRASTAT returns and ESLs.

**Recapitulative Statement.** In general, Recapitulative Statements must be prepared for each calendar month with respect to the following:

- Intra Community supplies of goods
- Intra-Community supplies of services made to a customer that is liable to pay the tax on that service in the EU member state in which it is established, except when such service is exempt in that member state

Recapitulative Statements must be submitted online to the VAT Department by the fifteenth day of the month following the relevant calendar month.

However, Recapitulative Statements may be submitted online for each calendar quarter by the 15th day of the month following the end of the quarter if the total amount of the supplies of goods, excluding VAT, did not exceed in the relevant quarter or in any of the four preceding quarters €50,000. If the €50,000 threshold is exceeded, the Recapitulative Statements must be submitted by the 15th day of the month following the relevant month.

Notwithstanding the above, if a person provides only supplies of services, it may submit an online Recapitulative Statement for each calendar quarter regardless of the total value of services supplied.

The values of supplies of goods or services required to be reported in the Recapitulative Statement must be declared in the period of submission during which VAT becomes chargeable.

# Mauritius

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	7 September 1998
European Union (EU) member state	No
Administered by	Mauritius Revenue Authority (MRA)
VAT rates	
Standard	15%
Other	Zero-rated and exempt
VAT number format	VAT99999999
VAT return periods	
Monthly	Annual amount of taxable supplies exceeds Rs. 10 million
Quarterly	Annual amount of taxable supplies is Rs. 10 million or less
Thresholds	
Registration	Rs. 2 million annually (no turnover threshold applies to some businesses and professions; see Section C)
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Mauritius by taxable persons
- Reverse-charge services received by taxable persons in Mauritius
- The importation of goods from outside Mauritius

Certain persons, such as airlines and other organizations approved by the Director-General, Mauritius Revenue Authority (MRA), are exempt from VAT on specified supplies.

**C. Who is liable**

A taxable person is any entity or person that is required to be registered for VAT.

VAT registration is compulsory if annual turnover from a trade or profession exceeds Rs. 2 million.

However, persons engaged in certain businesses or professions must register for VAT, regardless of their level of turnover. This rule applies to the following businesses or professions:

- Accountants
- Auditors
- Advertising agents
- Advisers
- Architects
- Attorneys
- Barristers
- Clearing and forwarding agents
- Engineers
- Estate agents
- Land surveyors
- Notaries
- Opticians
- Project managers
- Property valuers
- Quantity surveyors
- Tour operators
- General sales agents of airlines

**Exemption from registration.** A taxable person whose turnover is exclusively zero-rated may choose to not apply for registration.

A taxable person whose turnover is exclusively exempt from VAT may not apply for registration.

**Voluntary registration.** A person may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A person may also register for VAT voluntarily in advance of making taxable supplies.

**Group registration.** Group registration is not allowed in Mauritius.

**Reverse charge.** If a nonresident person supplies services to a VAT-registered person that are performed or used in Mauritius, the VAT-registered person must account for the VAT due under “reverse charge” accounting; that is, the registered person must charge itself VAT. The self-assessed VAT may be deducted as input tax depending on the taxable person’s partial exemption status (see Section F). This measure does not apply to supplies that are exempt from VAT under the Mauritian VAT law.

**Cancellation of registration.** A taxable person that ceases to be eligible for VAT registration must deregister. The person must write to the Director-General, MRA, who determines the effective date of deregistration.

**Late-registration penalties and interest.** A penalty applies to late registration. The penalty is 5% of the unpaid tax plus interest at a rate of 1% of the unpaid tax per month.

## D. VAT rates

In Mauritius, the term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods

and services that are not liable to tax and that do not give rise to a right of input tax deduction.

In Mauritius, the following are the rates of VAT:

- Standard rate of 15%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Bread  
Rice  
Education and training  
Certain financial services  
Insurance  
Public transport  
Land  
Medical services

#### **Examples of goods and services taxable at 0%**

Printed books and booklets  
Sugar  
Fertilizers  
Margarine  
Yogurt  
Edible oils  
Transport of passengers and goods by sea or air  
Electricity and water  
Export of goods and services

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The tax point under the Mauritian law is the earlier of the receipt of payment or the issuance of an invoice or VAT invoice.

For hire-purchase agreements, the tax point arises when the agreement is made.

**Deposits and prepayments.** The receipt of a deposit or prepayment normally creates an actual tax point if the amount is paid in the expectation that it will form part of the total payment for a particular supply. A tax point is created only to the extent of the payment received.

**Imported goods.** The time of supply for imported goods is the time when the goods are removed from customs.

**Goods sent on approval or for sale or return.** The tax point for goods sent on approval or for sale or return is the earlier of the issuance of an invoice or VAT invoice or when payment is received.

**Continuous supplies of services.** If services are supplied continuously, a tax point is created each time a payment is made or an invoice or VAT invoice is issued, whichever occurs earlier.

**Reverse-charge services.** The tax point for reverse-charge services is when the consideration for the services is paid. If the consideration for the services is not in money, the tax point is the last day of the VAT period during which the services are performed.

## F. Recovery of VAT by taxable persons

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

A valid VAT invoice or customs import declaration must generally support a claim for input tax.

Input tax on expenditure incurred before registration is not generally allowable.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Purchase of a car  
Accommodation  
Assets transferred as part of a going concern  
Business entertainment and hospitality

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

Conferences, exhibitions and seminars  
Restaurant expenses for employees  
Certain goods' vehicles

**Partial exemption.** Input tax directly related to making exempt supplies is not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption."

A taxable person that makes exempt supplies may calculate the recoverable amount of VAT by using several methods. The standard partial exemption calculation method is a two-stage calculation. The following are the two stages for this calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.

- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation of recoverable VAT may be performed using the proportion of the value of taxable supplies to total turnover in the preceding year. An adjustment is made after the year so that the proportion is based on actual figures.

If the standard calculation provides an unfair result, the taxable person may agree on a special calculation method with the MRA.

**Capital goods scheme.** No capital goods scheme adjustment applies in Mauritius.

**VAT refunds.** If the amount of input tax (VAT on purchases) recoverable in a period is greater than the amount of output tax due (VAT on sales), the excess may be refunded in certain circumstances.

A registered person may make a claim for repayment of the amount of input tax allowable with respect to capital goods amounting to Rs. 100,000 or more if it has an excess of input VAT in the relevant tax period.

In addition to any amount repayable relating to capital goods, a registered person may also make a claim to the MRA for a repayment of that part of the excess amount that corresponds to the proportion of the total value of zero-rated supplies made compared to the total value of taxable supplies made in that tax period.

*VAT refund scheme for registered producers in the agroindustrial and fisheries sectors.* In the 2012 budget, the Minister of Finance and Economic Development announced that a VAT refund scheme will be set by the MRA so that registered producers in the agroindustrial and fisheries sectors will benefit from a VAT refund with respect to equipment purchased in 2012. The following are the lists of the relevant equipment.

**Registered planters, breeders,  
horticulturists and apiculturists**

Agricultural and horticultural appliance for spraying liquids or powders

Smoking-out apparatus for beekeeping

Ploughs

Harrows, weeders and hoes

Manure spreaders and fertilizer distributors

Harvesting and threshing machinery

Milking machines

Dairy machinery

Poultry incubators and brooders

Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables

Machinery for the preparation of fruits, nuts or vegetables

Hand tools

Agricultural plastic crates

Heavy duty high pressure cleaning equipment

Heavy duty water pumping equipment

**Registered fishermen**

Outboard and inboard motors of less than 25 hp

VHF telecommunications radios

Equipment used in fishing vessels

## **G. Recovery of VAT by nonestablished businesses**

Mauritius does not refund VAT to businesses that are not established in Mauritius.

## **H. Invoicing**

**VAT invoices and credit notes.** Taxable persons must provide VAT invoices for all taxable supplies made to other registered persons in Mauritius.

A VAT invoice is necessary to support a claim for input tax deduction or a refund.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply.

**Foreign-currency invoices.** If an invoice or a VAT invoice is issued in a foreign currency, the VAT due must be converted into Mauritian rupee using the prevailing exchange rate at the time of the issuance of the invoice.

## **I. VAT returns and payment**

**VAT returns.** VAT returns are submitted either quarterly or monthly. The quarterly return periods end in March, June, September and December. Returns must be submitted within 20 days after the tax period. VAT payments must also be made within 20 days after the tax period. The time limit of 20 days does not apply to a person that is required to submit its VAT return electronically. In such a case, the time limit is the end of the month following the taxable period. If the statutory date is the end of December, the due date for the submission of the return and payment of tax is two days, excluding Saturdays and public holidays, before the end of December.

**Penalties and interest.** A penalty applies for the late submission of a VAT return. It equals Rs. 2,000 per month, up to a maximum of Rs. 20,000.

For late payment of VAT, the penalty is 5% of the unpaid tax and interest is computed at a rate of 1% per month. The Director-General, MRA may waive the penalty and interest if the Director-General is satisfied that the error was attributable to a just or reasonable cause.

Under the 2012 budget, an incentive scheme for VAT registration will be introduced for the six months ending 30 June 2012 for persons who have not registered for VAT. Only the VAT due for the last two years will be due and no penalty will apply. Also, no interest will apply if the VAT is paid before 30 June 2012.



# Mexico

(Country code 52)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	1 January 1980
European Union (EU) member state	No
Administered by	Ministry of Finance and Public Credit ( <a href="http://www.sat.gob.mx">http://www.sat.gob.mx</a> ) ( <a href="http://www.shcp.gob.mx">http://www.shcp.gob.mx</a> )
VAT rates	
Standard	16%
Reduced	11%
Other	Zero-rated and exempt
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- Supplies of goods made or services provided in Mexico by a taxable person
- Supplies of goods and services subject to the reverse charge (see Section C)
- Grants of temporary use or exploitation of goods
- Importations of goods from outside Mexico, regardless of the status of the importer

## C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies or grants temporary use of goods or provides services in the course of doing business in Mexico. A business

entity or individual is liable to register for VAT, effective from its first taxable transaction.

**Group registration.** VAT grouping is not allowed under the Mexican VAT law. Legal entities that are closely connected must register for VAT individually.

**Foreign businesses.** A foreign legal entity with an establishment in Mexico must submit an application for VAT registration, together with its corporate documents, to the Ministry of Finance and Public Credit. The registration must be submitted together with the request for tax identification.

A nonestablished business that has no permanent establishment in Mexico must appoint a tax representative to register for VAT.

**Reverse charge.** The “reverse charge” applies to certain supplies of goods and services. Under this provision, a taxable person that receives a supply must withhold the VAT due from the supplier and must pay the VAT. The reverse charge applies to a variety of transactions, including the following:

- Fees paid by companies to individuals
- Acquisitions of scrap material
- Ground transportation of goods
- Commissions paid by companies to individuals
- Purchases made by major exporters and companies with foreign trade programs
- The lease or acquisition of tangible goods from residents abroad

**Late-registration penalties.** Penalties and interest are assessed for several types of VAT errors, including late registration for VAT (see Section I).

## D. VAT rates

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

In Mexico, the following are the three rates of VAT:

- Standard rate: 16%
- Reduced rate: 11%
- Zero rate (0%)

The standard rate of 16% applies to all supplies of goods or services, unless a specific measure provides for a reduced rate, the zero rate or an exemption.

The reduced rate of 11% applies to supplies of goods and services by residents in the border region of Mexico, except for sales of real estate. The reduced rate applies on the condition that the goods are physically delivered or the services are actually rendered in that region.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are zero-rated (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Books, newspapers and magazines  
 Land and buildings used for residential purposes  
 Transfers of copyrights by authors  
 Education  
 Public transport of passengers by land (excluding rail transportation)  
 Transport of goods by sea for nonresidents  
 Local and foreign currency and credit instruments (including shares)  
 Temporary imports of goods, imports of goods temporarily exported, goods in transit and imports of goods and services that would be zero-rated or exempt if supplied in Mexico

**Examples of goods and services taxable at 0%**

Exported goods  
 Certain exported services  
 Unprocessed food and milk  
 Patented medicines

**E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic tax point for supplies of goods and services is when the customer pays the consideration. As a result, VAT is determined on a cash-flow basis.

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

**F. Recovery of VAT by taxable persons**

A taxable person may recover input tax (also known as credit VAT), which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax (also known as debit VAT), which is VAT charged to customers. Input tax includes VAT charged on goods and services supplied in Mexico, VAT paid on imports of goods and VAT withheld on reverse-charge goods and services.

To be deductible, input tax must relate to the acquisition of goods and services that qualify as deductible expenses for income tax purposes. If an item of expenditure is only partly deductible for income tax purposes, input VAT may be credited only with respect to the deductible portion of the expense.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Business gifts  
 Entertainment of employees

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

Business entertainment

Accommodation

Purchase of a vehicle, up to Mex\$175,000

Lodging, up to Mex\$3,850 per day

Meals, disbursed in Mexico, up to Mex\$750 per day, and disbursed in foreign countries, up to Mex\$1,500 per day

Lease of a vehicle, up to Mex\$850 per day

Mobile phones

Travel expenses

Taxis

**Partial exemption.** Input tax directly related to making exempt or nontaxable supplies is generally not recoverable. If a taxable person makes exempt or nontaxable supplies, as well as taxable supplies, it may not recover input tax in full.

A taxable person that makes taxable supplies, as well as exempt or nontaxable supplies, must calculate its input tax credit based on a “credit factor.” The credit factor is determined based on the percentage of taxable turnover compared with total turnover (including taxable and exempt or nontaxable supplies) in the month of the payment.

New rules introduced in 2005 allow more costs and expenditure to be allocated directly to taxable or nontaxable activities. In addition, new rules were introduced for the determination of the VAT credit. For example, if the use of investment goods that are used for both taxable activities and exempt or nontaxable activities has changed sufficiently as to modify the “credit factor” by more than 3%, an adjustment is required to take the change of use into account.

**Refunds.** If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax periods, or it may be refunded on request. The tax authorities refund a VAT credit by depositing the refundable amount into the taxable person’s bank account. By law, refunds must be made within 40 business days after the date on which the refund request is filed. However, if the taxpayer files a tax report, the refund period may be reduced to 25 business days. The periods mentioned above may be reduced to 20 business days if the taxpayer produces e-invoices in accordance with the tax provisions.

### **G. Recovery of VAT by nonestablished businesses**

Mexico does not refund VAT incurred by businesses that are neither established in Mexico nor registered for VAT there. If a foreign business has an establishment in Mexico for VAT purposes and makes taxable supplies there, it may request a refund of any VAT credit balances through the general refund procedure for taxable persons (see Section F).

### **H. Invoicing**

**VAT invoices and credit notes.** A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. Invoices must have been printed within the previous two

years by an establishment authorized by the Ministry of Finance and Public Credit; however, in 2011, digital invoices are required. Taxable persons that make supplies of goods or services to the general public may issue simplified vouchers.

A valid VAT invoice is required to support a claim for input tax deduction.

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

**Exports.** Mexican VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that proves the goods have left Mexico. Suitable proof includes the customs export documentation for the transaction.

**Foreign-currency invoices.** If a VAT invoice is issued in foreign currency, the values for VAT purposes must be converted to Mexican pesos (Mex\$), using the exchange rate published on the date of the transaction by the Central Bank of Mexico in the *Federal Official Gazette*.

## I. VAT returns and payment

**VAT returns.** VAT returns must be submitted for monthly periods. VAT returns and payment in full are due by the 17th day of the month following the end of the return period. In most cases, taxable persons must file VAT returns electronically.

Liabilities shown on returns must be paid in Mexican pesos.

**Penalties.** Penalties are assessed for errors and omissions connected with VAT accounting. Under the Mexican Federal Tax Code, the following are considered tax offenses:

- Failure to comply with the obligations set out in tax provisions, including late compliance with those obligations
- Underpayment and nonpayment of taxes
- Overestimated refunds, credits or offsets
- Issuance of invoices that do not comply with tax requirements
- Mathematical errors in filed returns
- Failure to keep accounting books

Any amount of tax that is not paid by the due date must be adjusted for inflation. A monthly surcharge is also applied to the amount of tax owed at a rate of 1.13% per month. If the taxable person corrects the error voluntarily or if the late payment is due to factors beyond the taxable person's control, no fines are imposed. However, the surcharge and inflation restatement apply.

Interest is assessed on late payments of tax at a monthly rate of 1.13%.

The Federal Tax Code also lists tax crimes, which are criminal offenses. Tax crimes include the following offenses:

- Contraband
- Tax fraud
- Hiding, altering or destroying (in whole or in part) accounting books and records

Criminal offenses are punishable by fines, which may be a percentage of the tax lost or a specified amount. Tax crimes may also be penalized with a term of imprisonment of between three months and nine years, or longer, depending on the circumstances.

## Moldova

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*This chapter reflects amendments to the tax law that are subject to the approval of the President of Moldova and official publication in the Official Gazette. Readers should obtain updated information regarding the approval of these amendments before engaging in transactions.*

## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxa pe valoarea adaugata (TVA)
Date introduced	1 July 1998
European Union (EU) member state	No
Administered by	Principal State Fiscal Inspectorate (www.fisc.md)
VAT rates	
Standard	20%
Reduced	6%/8%
Other	Zero-rated and exempt
VAT number format	1234567
VAT return period	Monthly
Thresholds	
Mandatory registration	MDL 600,000
Voluntary registration	MDL 100,000
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Moldova by a taxable person in the course of a business
- Importation of services received in Moldova by a taxable person (using the “reverse-charge” mechanism)
- Importation of goods

### C. Who is liable

A taxable person is any person or legal entity that is registered for VAT in Moldova. An entity that has a fixed place of business or carries out commercial or professional operations on a regular basis in Moldova must register for VAT.

The mandatory VAT registration threshold is turnover or imported services of MDL 600,000 in a period of 12 consecutive months.

The voluntary VAT registration threshold is turnover of MDL 100,000 in a period of 12 consecutive months.

**Group registration.** VAT grouping is not permitted under Moldovan VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** Foreign traders are not allowed to have a VAT registration number. If a foreign entity develops entrepreneurial activity in Moldova that results in a permanent establishment (PE), it must register for VAT as a local entity. It is then treated in the same way as a resident entity.

**Reverse charge.** The reverse charge is a form of self-assessment for VAT, under which the recipient of a supply of goods or services accounts for the tax.

Services rendered by nonresidents to entities that carry on business in Moldova are regarded as imported if they are considered to be delivered in Moldova.

The recipient of the service is required to account for the VAT due in Moldova. The tax is due on the date of payment for the services. VAT paid for imported services is allowed for input tax recovery (see Section F).

The information relating to VAT on imported services is declared to the tax authorities in a separate box of the VAT return.

**Penalties for reverse-charge supplies.** If the VAT on an imported service is not paid at the correct time, a penalty is imposed, effective from the date on which the VAT became due (that is, effective from the date of the payment for services).

### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are subject to VAT. The term “exempt supplies” refers to supplies of goods and services that are not subject to VAT. Exempt supplies do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as zero-rated, which means that no VAT is chargeable, but the supplier may recover related input tax. In general, zero-rated supplies include exports of goods and related services as well as other supplies.

In Moldova, the following are the rates of VAT:

- Standard rate: 20%
- Reduced rates: 6% and 8%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the reduced rates of VAT (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Dwellings  
Land  
Fixed assets contributed to share capital  
Cars  
Food for children  
Financial services  
Educational services  
Insurance  
Betting and gaming  
Books and periodicals

**Examples of goods and services taxable at 0%**

Exports of goods and services  
International transport of persons and freight  
Electric and thermal power  
Supplies of water to the public

**Examples of goods and services taxable at 6%**

Natural and liquefied gas produced and imported in Moldova

**Examples of goods and services taxable at 8%**

Bakery products  
Dairy products  
Drugs  
Sugar produced from sugar beet  
Agricultural products

**E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” In general, a VAT payer becomes liable to account for VAT at the time of the earliest of the following events:

- The receipt of partial or total payment from the customer
- The performance of the supply
- The issuance of the VAT invoice

VAT payers must make payments for every tax period. The standard tax period is a calendar month.

**Reverse charge.** Tax is payable on reverse-charge services on the date of payment for the services.

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

**F. Recovery of VAT by taxable persons**

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



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

A valid tax invoice or customs document must generally accompany a claim for input tax. The right of deduction may be exercised in the tax period in which the purchase documents are entered into the recipient's books of account.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Private expenditure

Cost of goods that are lost, stolen or destroyed

Expenditure that is not allowable for income and corporate tax purposes

Business gifts

Bad debts (purchaser acquired goods and services but never paid the supplier)

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

Hire, lease, maintenance and fuel for cars

Purchase, hire, lease, maintenance and fuel for vans and trucks

Parking

Books

Attendance at conferences, seminars and training courses

Mobile phones

Advertising

Transport

Hotel accommodation

**Partial exemption.** Input tax deduction is not granted for exempt supplies. If a taxable person makes both taxable and exempt supplies, it may recover only input tax related to supplies that are taxable. Zero-rated supplies are treated as taxable supplies for these purposes. Taxpayers who make taxable and exempt supplies may deduct VAT paid on purchases if they satisfy the following conditions:

- The taxpayer maintains separate records of payments made for goods and services used for both VAT-taxable and exempt supplies.
- The recoverable amount of VAT is determined on a monthly basis by the application of the pro rata method to the amount of VAT related both to VAT-taxable supplies and to VAT-exempt supplies.

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period,

the taxable person may request a refund of VAT if the excess VAT results from any of the following:

- Zero-rated taxable supplies
- Supplies made by companies that produce and sell bread and dairy products
- Capital investments by business entities registered as VAT payers except for investments made in buildings and in certain types of means of transport
- Overpaid tax

The following special procedure applies if a taxpayer requests a VAT refund:

- The taxable person must submit a request to the tax authorities.
- Before the repayment is made, the tax authorities perform a special tax audit to ensure that the amount claimed is accurate.

In practice, it may be difficult to receive a refund in these circumstances and substantial delays may be experienced.

### G. Recovery of VAT by nonestablished businesses

Moldova does not refund VAT incurred by businesses that are neither established nor registered for VAT there.

### H. Invoicing

**VAT invoices and credit notes.** In general, a taxable person must provide a VAT invoice for all taxable supplies except in several circumstances provided for by the Moldovan law. A VAT invoice is necessary to support a claim for an input tax deduction. No laws exist with respect to credit notes.

**Proof of exports.** VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence confirming that the goods have left Moldova. The law provides for a specific list of supporting documents proving the exportation, which vary according to the type of exported goods or services.

**Foreign-currency invoices.** A VAT invoice must be issued in leu (MDL), which is the currency of Moldova.

**Invoice register.** A State General Electronic Fiscal Invoice Register (the Register) has been introduced in Moldova. VAT taxpayers must register fiscal invoices in the Register in accordance with the following rules:

- Effective from 1 July 2012, VAT taxpayers registered with the Main State Tax Inspectorate, Chisinau State Tax Inspectorate, Balti State Tax Inspectorate and Comrat State Tax Inspectorate must register all fiscal invoices with a total value of VAT taxable supply in excess of MDL 100,000.
- Effective from 1 January 2013, all VAT taxpayers must register all fiscal invoices with a total value of VAT taxable supply in excess of MDL 50,000.
- Effective from 1 January 2014, all VAT taxpayers must register all fiscal invoices with a total value of VAT taxable supply in excess of MDL 10,000.

Failure to register fiscal invoices correctly and on time in the Register may result in significant penalties imposed by the tax authorities.

## I. VAT returns and payment

**VAT returns.** VAT return periods are generally monthly.

Returns must be filed by the last day of the month following the end of the return period. Payment in full must be made by the same date. However, VAT with respect to reverse-charge services must be paid to the tax authorities when the recipient receives the services.

Return liabilities must be paid in leu.

**Penalties.** Penalties are levied for several VAT offenses, including failure to register for VAT, failure to apply the reverse charge, late submission of a VAT return and late payment of VAT.

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## Morocco

w(Country code 212)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la Valeur Ajoutée (TVA)
Date introduced	1 January 1986
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.mfie.gov.ma">http://www.mfie.gov.ma</a> )
VAT rates	
Standard	20%
Reduced	7%/10%/14%
Other	Exempt
VAT number format	12345678
VAT return periods	Monthly or quarterly
Thresholds	
Registration	Nil
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to all transactions involving the supply of goods and services performed in Morocco and to the importation of goods and services, including the one-off supply or importation of goods.

## C. Who is liable

A taxable person is a person or legal entity that carries out a taxable transaction. A taxable transaction is a transaction involving the sale or importation of goods or services that is subject to VAT even if such transaction occurs only once. A person liable to VAT in Morocco must register with the local tax service.

Morocco does not provide a VAT registration threshold. A business registers for VAT when it registers for corporate or income tax purposes.

**Group registration.** The Moroccan VAT law does not allow VAT grouping. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** Nonresident companies that perform a taxable activity in Morocco are liable to Moroccan VAT.

**Tax representatives carrying out taxable activity in Morocco.** Under the VAT law, nonresident companies must appoint a tax representative to handle their VAT obligations (VAT returns, filings and payments). If a nonresident company does not appoint a tax representative, the Moroccan customer becomes responsible for the declaration and the payment of VAT due on behalf of the nonresident supplier.

**Late-registration penalties.** Morocco does not impose a specific penalty for late registration. However, VAT due for the period preceding registration results in late filing and payment penalties (see Section I).

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are subject to VAT. The term “exempt supplies” refers to supplies of goods and services that are not subject to VAT. A business engaged in the sale of exempt supplies may have a right to deduct input VAT. If supplies are exempt with a right to deduct, no VAT is chargeable but the supplier may recover related input tax.

The standard rate of VAT is 20%. Under Article 99 of the Moroccan Tax Code, lower rates apply to specific business activities including the following:

- Sales of water, electricity and pharmaceutical products: 7%
- Petroleum products, banking transactions, and hotels’ and restaurants’ operations: 10%
- Transport services: 14%

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Morocco, the “tax point” generally corresponds to the time when the payment is made.

The Moroccan Tax Code provides that the tax point is the date of cash receipt. After a company receives cash, VAT becomes due, even if the cash received represents only part of the total outstanding amount for the goods or services provided.

The Moroccan Tax Code provides an optional regime under which VAT is due when the transaction is booked in the accounts of the seller or service provider. However, if the payment precedes the invoicing, the time of payment constitutes the tax point. Any company that wants to use the optional system must file a declaration with the tax administration before 1 January. A list of the company's customers that sets forth the unsettled VAT for each of the customers must be attached to the declaration. Newly registered taxpayers must file the declaration within one month after the commencement of their activity.

**Prepayments.** A prepayment or deposit constitutes a tax point. As a result, the time of effective delivery of the goods or services is ignored for VAT purposes.

**Continuous supplies of services.** If services are received continuously but payment is made periodically, a tax point is created each time payment is made or a VAT invoice is issued, whichever is earlier. No specific regulation provides for the VAT treatment of continuous services.

**Goods sent on approval.** The tax point for goods sent on approval is when the customer accepts the goods and a supply is made.

**Imported goods.** VAT on imported goods is due at the time of customs clearance.

## **F. Recovery of VAT by taxable persons**

A taxable person may recover input tax in the month following the month in which the VAT was paid.

Input tax is VAT charged on goods and services acquired by an entity for business purposes. A taxable person generally recovers input tax by deducting it from output tax (VAT charged on supplies made). Input tax consists of VAT charged on goods and services supplied in Morocco and VAT paid on imports of goods.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes and that are considered to be nondeductible expenses for corporate tax purposes (for example, goods acquired for private use by an entrepreneur).

**Partial exemption.** Input tax deduction is granted for taxable supplies and for supplies that are exempt with a right to deduct. If a taxable person makes both taxable supplies and exempt supplies, it may recover only the input tax related to supplies that are taxable or exempt with a right to deduct.

**Refunds.** If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in the same period, a refund is not generally granted. In most cases, the taxable person must carry the excess forward to a future VAT period. In general, refunds of the excess are generally only available with respect to the following VAT:

- VAT related to supplies of exported goods except for recycling metals (ferrous and nonferrous)
- VAT related to supplies of goods and services that are exempt with a right to deduct
- VAT related to purchases of equipment goods (fixed assets) during the first 24 months of activity of newly incorporated companies
- VAT related to financial leasing activities

### **G. Recovery of VAT by nonestablished businesses**

Nonresident entities conducting taxable activities in Morocco are not eligible for VAT refunds. Nevertheless, input VAT incurred in Morocco by nonresident entities may be offset against output VAT.

### **H. Invoicing**

**VAT invoices and credit notes.** A Moroccan taxable person must provide VAT invoices for taxable supplies, including exports, made to other taxable persons. Recipients of supplies must maintain copies of invoices.

Credit notes must be issued with VAT included.

**Proof of exports.** Moroccan VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence confirming that the goods have left Morocco. The evidence required is the customs declaration, which must clearly identify the exporter, the customer, the goods and the export destination, and must provide invoice information.

**Foreign-currency invoices.** A VAT invoice for a domestic supply may be issued in Moroccan dirhams (MAD) or a foreign currency. VAT based on the applicable VAT rate must be shown on the invoice.

### **I. VAT returns and payment**

**VAT returns.** The filing of VAT returns may be on a monthly or quarterly cycle based on certain criteria.

The following taxpayers must file monthly VAT returns:

- Taxpayers that had taxable turnover during the preceding year of MAD 1 million or more
- Nonresident persons that carry out taxable activities in Morocco

The following taxpayers must file quarterly VAT returns:

- Taxpayers that had taxable turnover during the preceding year of less than MAD 1 million
- Taxpayers operating through seasonal establishments, practicing periodic activities or carrying out occasional activities
- New taxpayers in their first calendar year of activity

The above taxpayers can opt for the monthly declaration system by filing a request with the tax administration before 31 January.

Taxpayers under the tele-declaration and tele-payment system must file VAT returns and make VAT payments within one month after the end of the relevant month or quarter.

Other taxpayers must file their VAT returns and pay VAT due before the 20th day of the month following the relevant month or quarter.

Tele-declaration and tele-payment are mandatory for taxpayers generating turnover of more than MAD 50 million, taxes excluded.

**Penalties.** Failure to file a VAT declaration results in a penalty of 15% of the amount of VAT due. If no VAT is due, the penalty equals MAD 500.

Late payment or underpayment of VAT results in a penalty of 10% of the amount of VAT due plus an interest charge of 5% of the VAT due for the first month for which the payment is late and interest of 0.5% of the VAT due for every month thereafter. If the VAT declaration provides that no tax is due, the amount of any VAT credit is reduced by 15%.

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## Netherlands

(Country code 31)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local names	Belasting over de toegevoegde waarde (BTW) Wet op de omzetbelasting 1968
Date introduced	1 January 1969

European Union (EU) member state	Yes
Administered by	Ministry of Finance ( <a href="http://www.minfin.nl">http://www.minfin.nl</a> )
VAT rates	
Standard	19%
Reduced	6%
Other	Zero-rated and exempt
VAT number format	NL1 2 3 4 5 6 7 8 9 B 01
VAT return periods	
Monthly	If the amount of VAT payable exceeds €15,000 per quarter
Quarterly	If the amount of VAT payable does not exceed €15,000 per quarter
Annually	If the amount of VAT payable does not exceed €1,883 per year
Thresholds	
Registration	None
Distance selling	€100,000
Intra-Community acquisitions	€10,000 (for exempt taxable persons and nontaxable legal persons)
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in the Netherlands by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- The intra-Community acquisition of goods from another EU member state by a nontaxable legal person in excess of the annual threshold (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person and nontaxable legal entities in the Netherlands (that is, services for which the recipient is liable to pay the VAT)
- The importation of goods from outside the EU, regardless of the status of the importer

## C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services, or intra-Community acquisitions or distance sales, in the course of a business, in the Netherlands. Taxable activities also include “carrying on a profession” or the “exploitation of tangible or intangible property in order to obtain income on a continuing basis.”

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

Special rules apply to foreign or “nonestablished” businesses.



**Group registration.** Taxable persons established in the Netherlands (including fixed establishments) may form a VAT group if the members are closely bound by “financial, economic and organizational links.” Since a ruling from the Supreme Court (*Hoge Raad*) in early 2005, the formation of a VAT group no longer requires a decree from the Tax Office, which is issued after a written request. However, the Tax Office may also issue a VAT group decree on its own accord. For legal certainty, it is recommended that persons meeting the conditions for group registration inform the Tax Office.

The effect of VAT grouping is to treat the members as a single taxable person. As a result, transactions between members of the VAT group are disregarded for VAT purposes. Members of a Dutch VAT group may file a single VAT return, or members may elect to file individually. Each member of a VAT group is jointly and severally liable for all VAT due.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in the Netherlands. The “reverse charge” applies generally to supplies of goods and services made by nonestablished businesses to taxable persons and other nontaxable legal persons established in the Netherlands, provided that Dutch VAT is due on these supplies. Under the reverse-charge provision, the taxable person or legal person that receives the supply must account for the VAT due. If the reverse charge applies, the nonestablished supplier may not account for VAT in the Netherlands. The reverse charge does not apply to supplies made to private persons.

A nonestablished business that makes supplies of goods or services in the Netherlands must register for VAT if it is required to account for VAT on the supply. Consequently, a nonestablished business must register for VAT in the Netherlands if it makes any of the following supplies:

- Intra-Community supplies or acquisitions
- Distance sales in excess of the threshold
- Supplies of goods and services that are not subject to the reverse charge

A nonestablished, non-EU business must register for VAT in the Netherlands if it makes any of the following supplies:

- Telecommunication services
- Electronic services
- Radio and television broadcasting services
- Leasing of movable goods to private individuals

**Tax representatives.** Nonresident businesses may register for VAT without appointing a tax representative. In limited circumstances, businesses that are established outside the EU must appoint a tax representative resident in the Netherlands to register for VAT (for example, for distance sales made from another EU country). Nonestablished businesses, regardless of whether they are established in or outside the EU, may choose to appoint a representative. In some cases, the appointment of a resident tax representative may be advantageous (for example, for dealing with imports using the “postponed accounting” system; see Section E).

Nonestablished businesses that do not appoint a representative must register at the Tax Office for Non-Resident Businesses in Heerlen, at the following address:

Belastingdienst/Limburg/kantoor Buitenland  
Postbus 2865  
6401 DJ Heerlen  
Netherlands

**Late-registration penalties.** No specific penalty is imposed for late registration. However, if the late registration results in the late payment of VAT or the late submission of VAT returns, penalties may be imposed.

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate (0%). The term “exempt supplies” refers to supplies of goods and services that are not liable to tax, and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include intangible services supplied to another taxable person established in the EU or to any recipient outside the EU (see the chapter on the EU, page 208).

The following rates of VAT apply in the Netherlands:

- Standard rate: 19%
- Reduced rate: 6%
- Zero rate (0%)

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

The following tables provide examples of exempt supplies of goods and services, and supplies of goods and services taxed at a reduced rate (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

Supply of immovable property  
Medical services  
Finance  
Insurance  
Betting and gaming  
Education

##### **Examples of goods and services taxable at 0%**

Exports of goods  
Intra-Community supplies of goods  
Supplies to ships and aircraft used for international transportation

##### **Examples of goods and services taxable at 6%**

Foodstuffs  
Books  
Paintings and other “cultural goods”  
Goods and services used by the agricultural sector  
Passenger transport  
Hotel accommodation

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the service is completed.

In the Netherlands, an invoice must be issued before the 15th day of the month following the month in which the supply takes place. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due, at the latest, on the day on which the invoice should have been issued. If the purchaser is not a taxable person, the tax becomes due on the date of the supply.

If the consideration is paid in full, or in part, before the invoice is issued, the actual tax is due on the date on which payment is received (for the amount received).

However, some taxable persons are permitted to account for VAT on a cash basis (cash accounting). If cash accounting is used, the tax point is the date on which the payment is received.

**Prepayments.** If the customer pays the consideration in installments or makes a prepayment, the supplier must issue an invoice for each installment before the date when it falls due or when it receives the prepayment. The time of supply is the date of the invoice.

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued.

**Imported goods and postponed accounting.** The basic time of supply for imported goods is the date of importation or the date on which the goods leave a duty suspension regime. However, taxable persons may delay payment of import VAT by applying for permission to use the “postponed accounting” facility. Under this facility, import VAT is reported on the taxable person’s VAT return (and recovered in the same tax period as input tax, depending on the taxable person’s partial exemption status; see Section F).

A nonestablished business must appoint a tax representative resident in the Netherlands to use the postponed accounting facility.

## F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in the Netherlands, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse-charge services (see the chapter on the EU, page 208).

A valid tax invoice or customs document must be kept in the accounts to support a claim for input tax.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure if the value of the private benefit to an employee exceeds an amount of €227, excluding VAT, per person per year. If the goods or services are used for private purposes, in specific situations, the legal entity is deemed to make a supply of goods or services and output VAT is due.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Private expenditure

Business gifts (valued at more than €227 if the recipient could not have recovered the input VAT in its own right)

Restaurant meals

Home telephone costs

Alcohol and tobacco

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

Purchase, hire, lease, maintenance and fuel for vans and trucks

Car hire, subject to special rules, as well as the purchase, hire, lease, maintenance and fuel for cars put at the disposal of employees, subject to special rules

Conferences, seminars and training courses (restaurant meals are excluded)

Advertising

Taxis

Business travel costs

Business gifts (valued at less than €227 a year or if the recipient of the gift could have recovered the input VAT in its own right)

Business entertainment (subject to the limit of €227 a year on employee expenses)

**Employee expenses.** A maximum limit of €227 annually applies to the value of expenses incurred per employee on which input VAT may be recovered, including drinks, meals from a discounted company cafeteria and company parties, mobile phones and computers made available to employees at home. The €227 limit relates to the net cost or value of the expenses incurred, rather than the amount of VAT recovered. VAT on employee expenses can only be recovered if a valid tax invoice has been issued to the employer.

The employer may recover input VAT on employee expenses in full throughout the year. At the end of the year the employer must calculate the average cost of expenses per employee. If the average cost of expenses per employee exceeds €227, all of the VAT recovered on these expenses throughout the year must be repaid (not just the VAT on expenses in excess of the €227 limit).

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. If a taxable person makes both

exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as “partial exemption.” Exempt with credit supplies are treated as taxable supplies for these purposes.

In the Netherlands, the amount of input tax that a partially exempt business may recover is calculated in the following two stages:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, on general business overhead) that may be allocated to taxable supplies and recovered.

The calculation is normally based on the percentage of the values of taxable and exempt supplies made in the period. The recovery percentage is rounded up to the nearest whole number (for example, 5.2% becomes 6%). In specific situations other methods of apportionment may be used.

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

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

- Immovable property: adjusted for a period of 10 years
- Movable property subject to depreciation for income tax purposes: adjusted for a period of five years

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

The adjustment is not made if it is insignificant (that is, less than 10% of the deducted amount for that specific year).

**Refunds.** If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may claim a refund of the credit by submitting the VAT return for the period. The refund is paid in cash.

## G. Recovery of VAT by nonestablished businesses

The Netherlands refunds VAT incurred by businesses that are neither established in the Netherlands nor registered for VAT there. A nonestablished business may claim Netherlands VAT to the same extent as a VAT-registered business.

For businesses established in the EU, refund is made under the terms of EU Directive 2008/9/EG. For businesses established

outside the EU, refund is made under the terms of the EU 13th Directive. The Netherlands does not exclude any non-EU country from the refund scheme.

For the general VAT refund rules contained in EU Directive 2008/9/EG and the EU 13th Directive, see the chapter on the EU, page 208.

**Refund application.** Under EU Directive 2008/9/EG, the formal deadline for refund claims by EU businesses is 30 September of the year following the year in which the input tax is incurred. Effective from 2010, refund claims must be submitted electronically to the local tax authorities of the EU applicant. For further information, see the chapter on the EU, page 208.

The minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is €400. For an annual claim, the minimum amount is €50.

The formal deadline for refund claims under the EU 13th Directive is 30 June of the year following the year in which the input tax is incurred. However, a claim may be submitted within five years after the year in which the input tax is payable. In the case of late claims, no appeal is possible against negative decisions.

Claims may be submitted in Dutch, English, French or German. The application for refund must be accompanied by the appropriate documentation (see the chapter on the EU, page 208).

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

Applications under the EU 13th Directive for refunds of Netherlands VAT must be sent to the following address:

Belastingdienst/Limburg/kantoor Buitenland  
Postbus 2865  
6401 DJ Heerlen  
Netherlands

**Repayment interest.** Under EU Directive 2008/9/EG, the Dutch VAT authorities must make refunds of Dutch VAT within 4 months and 10 days after the date on which the refund claim is submitted. In the case of a late refund, the claimant is entitled to interest at the government interest rate in force at the time, in addition to the repayment.

For EU 13th Directive refunds, the Dutch VAT authorities have committed to make refunds within six months after the date on which the claim is submitted for the refund. If the refund is not made within this period and if the fault lies with the VAT authorities, the claimant is entitled to interest at the government interest rate in force at the time, in addition to the repayment.

## H. Invoicing

**VAT invoices and credit notes.** A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. However, the issuance of invoices for wholesalers is required.

Taxable persons must retain invoices for seven years. For real estate, a taxable person must retain the invoice for 10 years.

A VAT invoice is required to support a claim for input tax deduction or a refund under the EU Directive 2008/9/EG or EU 13th Directive refund schemes (see the chapter on the EU, page 208).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must be cross-referenced to the original VAT invoice.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left the Netherlands. Acceptable proof includes the following documentation:

- For an export, customs documentation, transport documentation, order forms and proof of payment issued by a foreign bank
- For an intra-Community supply, a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU member state), plus a range of commercial documentation (such as purchase orders, transport documentation, proof of payment and contracts)

**Foreign-currency invoices.** A VAT invoice must be issued in euros (€). If an invoice is issued in another currency, the VAT amount must be indicated in euros, using the daily conversion rate published by the European Central Bank.

## I. VAT returns and payment

**VAT returns.** VAT returns are submitted electronically in the Netherlands. They are submitted for monthly, quarterly or annual periods, depending on the amount of VAT payable.

Monthly VAT returns must be filed if the amount of VAT payable (that is, output VAT less input VAT) exceeds €15,000 on a quarterly basis. Taxable persons that receive regular repayments of VAT may also file monthly VAT returns. However, as of result of the economic recession, the Dutch tax authorities allow businesses that would normally have to file their VAT return on a monthly basis to file their VAT return on a quarterly basis. This is a temporary measure.

Quarterly VAT returns must be filed if the amount of VAT payable does not exceed €15,000 annually.

Taxable persons that are liable to pay a VAT amount of less than €1,883 annually may file annual VAT returns.

The return must be filed by the last day of the month following the end of the reporting period, together with full payment.

Nonestablished businesses registered for VAT in Heerlen must file their VAT returns and pay VAT due before the last business day of the second month after the reporting period.

Return liabilities must be paid in euros.

**Penalties.** Penalties are assessed for the late submission of a VAT return or for the late payment of VAT, in the following amounts:

- For the late submission of a VAT return, the maximum fine is €62.50.
- For errors in the payment of VAT, the maximum fine is 10% of the VAT due, up to a maximum amount of €4,920.
- For the late payment of VAT, the minimum fine is €50, and the maximum fine is 2% of the VAT due, up to a maximum amount of €4,920.
- If the late payment is caused by negligence or dishonest conduct, fines ranging from 25% to 100% of the VAT payable may be imposed.
- If a taxable person knows errors were made in the payment of VAT and did not notify the tax authorities accordingly, a penalty may be imposed up to 100% of the VAT that was not reported and paid as a result of the error.

*New penalty regime.* A stricter VAT penalty regime has been introduced. This new regime broadens the scope of penalties and allows the tax authorities to apply a punitive sanction to VAT errors in cases of gross negligence if new facts emerge. This punitive sanction can be applied even if a default penalty has already been applied.

In addition, effective 1 January 2012, a new duty to actively inform the tax authorities is introduced. Taxpayers must file supplementary returns if it appears that the information provided was inaccurate and/or incomplete. Noncompliance with the duty to file supplementary returns is subject to an offense penalty of up to 100% of the amount of tax not levied (or allegedly not levied). This penalty may be imposed if the taxpayer knew that the tax levied was too low.

## J. EU declarations

**INTRASTAT.** A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of its sales or purchases of goods exceeds the applicable threshold. The threshold applies to intra-Community supplies (Dispatches) and intra-Community acquisitions (Arrivals) separately. Separate reports are required for Arrivals and Dispatches.

The threshold for INTRASTAT Arrivals for the 2010 calendar year is €900,000.

The threshold for INTRASTAT Dispatches for the 2010 calendar year is €900,000.

The INTRASTAT return period is monthly. The submission deadline is the 8th day following the return period. INTRASTAT declarations must be completed in euros.

A penalty up to a maximum amount of €5,000 may be imposed for failure to comply with INTRASTAT filing and reporting obligations.

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



Until 1 January 2010, all ESLs were submitted on a calendar quarterly basis by the last day of the month following the end of the quarter. Effective from 1 January 2010, ESLs must be filed on a monthly basis if the total value of the supplied goods exceeds €100,000. If the total value of the supplied goods does not exceed €100,000, the ESLs may continue to be submitted on a quarterly basis.

Effective from 2010, taxable persons must submit ESLs for services if all of the following conditions are satisfied:

- The place of supply of business-to-business (B2B) services is located in another EU member state.
- The VAT due in that EU member state is reverse charged to the customer.
- The service is not exempt from VAT in the other EU member state.

The ESLs for services must be submitted on a monthly basis, but a business can opt to submit the ESLs on a quarterly basis.

If a business does not file an ESL on time, it receives a reminder. If the return is still not filed, the VAT authorities may impose a fine. The amount of the penalty depends on the number of successive omissions. The following are the penalties:

- For the first omission, a fine of 2.5% of €4,920 is imposed.
- For the second and third omissions, a fine of 5% of €4,920 is imposed.
- For a fourth or subsequent omission, a fine of 25% of €4,920 is imposed.

Under certain conditions, the VAT authorities may impose a maximum fine of €4,920 for missing ESL reports or ESLs containing systematic errors or omissions.

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## New Zealand

(Country code 64)

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### A. At a glance

Name of the tax

Goods and services tax (GST)

Date introduced

1 October 1986

European Union (EU)  
member state

No

Administered by	Inland Revenue ( <a href="http://www.ird.govt.nz">http://www.ird.govt.nz</a> ) and New Zealand Customs ( <a href="http://www.customs.govt.nz">www.customs.govt.nz</a> )
GST rates	
Standard	15%
Other	Zero-rated, exempt and nontaxable
GST return periods	
One month	Taxable turnover exceeds NZ\$24 million (optional for other registered persons)
Two months	Taxable turnover between NZ\$500,000 and NZ\$24 million)
Six months	Taxable turnover below NZ\$500,000
GST registration number format	Taxable persons use tax registration numbers (IRD number) for GST purposes in the format xx-xxx-xxx; effective from 2008, nine-digit numbers are issued to new GST-registered persons
Thresholds	
Registration	NZ\$60,000
Recovery of GST by nonestablished businesses	No (unless the business is registered for GST purposes and is making taxable supplies in New Zealand)

## B. Scope of the tax

GST applies to the following transactions:

- The supply of goods or services made in New Zealand by a registered person
- The importation of goods into New Zealand, regardless of the status of the importer

## C. Who is liable

A “registered person” is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in New Zealand.

The GST registration threshold is NZ\$60,000. The registration threshold applies in the following ways:

- Retrospectively to taxable turnover in the current month and the preceding 11 months
- Prospectively to taxable turnover in the current month and expected turnover in the following 11 months

GST may be recovered before the incorporation of a company if certain criteria are met. Under a proposal, this measure would be extended to situations in which a partnership structure is used.

**Voluntary registration.** A small business with taxable turnover of less than NZ\$60,000 a year may voluntarily apply to become a registered person.

**Group registration.** Group registration is allowed for corporations or other taxable persons that are “under common control.” For these purposes, a corporation is “controlled” if one or more persons own at least 66% of either the voting power in the corporation or the corporation’s common market value interests.

Other taxable persons may form a group if any of the following control conditions is satisfied:

- One group member controls each of the others.
- One person (outside the group) controls all the members of the group.
- Two or more persons carrying on a taxable activity as a partnership control the members of the group.

Under changes to the GST legislation that were introduced in 2007, retrospective GST grouping is allowed (between 1 October 2001 and 17 December 2006) if the GST group as a whole makes taxable supplies of 75% or more (that is, 75% or more of the total supplies made by the group is subject to GST at the standard rate or zero rate) and if the representative member (see below) of the group is a registered person.

Effective from December 2007, certain investment funds may join a GST group with other companies or other investment funds that meet the eligibility criteria. Effective from 1 April 2011, a listed Portfolio Investment Entity can also become part of a group for GST purposes.

A group must appoint a representative member. Group members making supplies outside the group must issue tax invoices if requested to do so. The representative group member must account for GST with respect to all group members’ taxable activities and file returns. Group members must adopt the same tax periods and accounting basis for GST purposes (see Section E). Group members are also jointly and severally liable for all GST liabilities.

Transactions between group members are not generally liable to GST. This measure applies on the condition that the supply is made to a group member that would have been entitled to input tax recovery if the supplier had not been a member of the group (see Section F).

**Branch or divisional registration.** If a taxable person’s business is organized in branches or divisions, it may register the divisions or branches separately for GST purposes. To register separately, a branch or division must maintain its own accounting system and it must either be in a separate location or carry out different activities from the rest of the legal entity. A branch or division that is separately registered must obtain its own GST registration number and complete a separate GST return. GST is charged on supplies made between branches and divisions that are registered separately and the rest of the legal entity.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in New Zealand. A foreign or nonestablished business must register for GST if it makes taxable supplies in New Zealand that exceed NZ\$60,000 in any 12-month period. A nonestablished business may also register for GST voluntarily if its supplies are below the annual registration threshold.

Although a nonestablished business not making any supplies in New Zealand may voluntarily register for New Zealand GST, Inland Revenue may deregister nonresidents that are not carrying on a taxable activity in New Zealand.

**Tax representatives.** A foreign business is not required to appoint a New Zealand resident tax representative in order to register for GST.

**Deregistration.** A taxable person that ceases to make taxable supplies must notify the New Zealand GST authorities within 21 days after ceasing operations. If the GST authorities are satisfied that the taxable person's operations are not expected to recommence within 12 months, they may cancel the taxable person's GST registration.

A taxable person may deregister voluntarily if it can satisfactorily prove to the GST authorities that its taxable turnover in the following 12 months is expected to be less than NZ\$60,000.

**Compulsory reverse charge.** A compulsory reverse-charge regime applies if all of the following circumstances exist:

- A supply of services is made by a nonresident to a resident.
- The supply would be taxable if made in New Zealand.
- The recipient of the supply is registered (or required to be registered).
- The recipient makes taxable supplies that total less than 95% of the recipient's overall supplies.

The reverse charge is 15% of the consideration for the supply. An input tax credit may be claimed with respect to the reverse charge to the extent that the service was acquired for the principal purpose of making taxable supplies.

Effective from 1 April 2011, the reverse-charge regime applies to imported services if the recipient of the supply meets one of the following conditions:

- At the time of acquisition, it estimates that the percentage of intended taxable use of the services is less than 95%.
- It determines that the percentage of actual taxable use is less than 90%. However, a pending amendment would increase this percentage to 95%, with retrospective effect from 1 April 2011.

**Late-registration penalties.** Penalties are assessed for a range of GST offenses, including the failure to register for GST when such registration is required (see Section I).

## D. GST rates

The term "taxable supplies" refers to supplies of goods and services that are liable to GST. The GST rates are the standard rate of 15% (effective from 1 October 2010; the prior rate was 12.5%) and the zero rate (0%). Some specific supplies have an effective rate of 9% through the GST valuation rules.

In addition, some activities are exempt from GST. This means that no GST is charged, but the supplier does not have the right to deduct any related input tax (see Section F).

The following tables list examples of goods and services that are zero-rated or exempt from GST (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Financial services (although some qualify for the zero rate)  
 Sales of donated goods by nonprofit organizations  
 Certain real estate transactions  
 Supply of precious metals

**Examples of goods and services taxable at 0%**

Sale of a business as a going concern  
 Exported goods and services  
 Services performed outside New Zealand  
 First sales of refined precious metals for investment purposes  
 Supplies of financial services made to businesses that make taxable supplies in excess of 75% of total supplies  
 Certain transactions involving emissions units  
 Exported second-hand goods if the recipient gives the supplier an undertaking in writing that the goods will not be reimported into New Zealand  
 Certain supplies of which land is a component by GST-registered vendors to registered persons (effective from 1 April 2011)

**Examples of goods and services with an effective rate of 9%**

Supplies of accommodation and other domestic goods and services in a rest home where nursing care and services are provided  
 Supplies of long-term accommodation in a hotel or motel  
 Facilitation fees charged by inbound tour operators attract GST at the standard rate.

**E. Time of supply**

The time when GST becomes due is called the “time of supply” or “tax point.” Under the general rule, a supply takes place when an invoice is issued or when payment is received by the supplier, whichever is earlier.

Taxable persons may opt to account for GST using the invoice basis, the payments basis or the hybrid basis. These methods are described below.

Transitional rules have been enacted for certain supplies to accommodate the change in GST rate from 12.5% to 15%, effective from 1 October 2010. For annual contracts involving successive supplies (for example, insurance contracts), GST may be charged at a rate of 12.5% for the rest of the insured period up to the next annual review date if conditions are met. For finance leases entered into before 1 October 2010 for a maximum term of five years, GST may be charged at a rate of 12.5% if certain conditions are met.

**Invoice basis.** Under the invoice basis of accounting, a taxable person must account for GST when an invoice is issued or when payment is received, whichever is earlier. Input tax is recoverable on the basis of tax invoices received (see Section F).

**Payments basis.** A taxable person may use the payments basis of accounting if the total value of its taxable supplies in the preceding 12 months did not exceed NZ\$2 million or if its turnover is not expected to exceed this figure in the following 12 months. Under the payments basis of accounting, a taxable person must

account for GST on the basis of payments received (except for a supply for which the consideration is more than NZ\$225,000 and a supply that is not a short-term agreement for the sale and purchase of property or services). Input tax is recoverable on the basis of invoices paid (see Section F).

**Hybrid basis.** Under the hybrid basis of accounting, a taxable person accounts for GST when an invoice is issued or when a payment is received, whichever is earlier. Input tax is recoverable on the basis of invoices paid (see Section F).

## F. Recovery of GST by taxable persons

A taxable person may recover input tax, which is GST charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is GST charged on supplies made. Input tax includes GST charged on goods and services supplied in New Zealand and GST paid on imports.

A valid tax invoice or customs document must generally accompany a claim for input tax for a supply greater than NZ\$50 (including GST).

A taxable person is effectively restricted from claiming input tax credits with respect to supplies that are greater than two years old except in certain circumstances.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Nonbusiness expenditure

50% of business entertainment expenses

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

Purchase, lease, hire, maintenance and fuel for cars, vans and trucks

Conferences and seminars

Advertising

Accommodation

Mobile phones

Business gifts

Travel expenses

**Adjustments.** Effective from 1 April 2011, a registered person may recover GST, to the extent that the acquired goods or services are used for making taxable supplies. This new input tax regime replaces the “principal purpose” test described below with an apportionment test. Under the new regime, a taxpayer apportions GST incurred on the acquisition of goods and services and claims an input tax deduction for goods or services that are used for making taxable supplies.

To determine the extent that goods or services are used for making taxable supplies, a taxpayer must estimate how it intends to use the goods or services, and choose a determination method that provides a fair and reasonable result. The taxpayer then uses the estimated intended taxable use of the goods and services to determine the proportion of the input tax that corresponds to the estimated intended taxable use.

A taxpayer is not required to apportion input tax if it makes both taxable and exempt supplies and has reasonable grounds to believe that the total value of its exempt supplies is no more than the lesser of NZ\$90,000 or 5% of the revenue from all taxable and exempt supplies for the period beginning at least 12 months from acquisition and ending on the person's balance date.

Taxpayers may be required to make further adjustments if the actual taxable use of an asset is different from its intended taxable use.

A special rule has been introduced for situations in which land is used concurrently for a taxable purpose and a nontaxable purpose, such as when land is simultaneously advertised for sale (taxable use) and rented out as a dwelling (nontaxable use). The new rule requires a registered person to calculate the percentage that the land is used for making taxable supplies by using the following formula:

$$\frac{\text{Consideration for taxable supply}}{\text{Total consideration for supply}} \times 100$$

In the above formula, "consideration for taxable supply" is the amount paid on a disposal of land in the adjustment period or the market value of the land at the time of making the adjustment. "Total consideration for supply" is the consideration for taxable supply, as described in the preceding sentence, plus the total exempt rental income payable since the acquisition of the land.

Before 1 April 2011, a registered person could recover GST if it acquired goods and services principally for business purposes. GST was not recoverable for goods and services that are acquired principally for nonbusiness purposes or principally for making exempt supplies.

If goods and services were acquired principally for making taxable supplies but were also used for making exempt supplies, an output tax adjustment was required to the extent that the goods and services were used for making exempt supplies.

If goods and services were acquired principally for making exempt supplies or for nonbusiness use, an input tax adjustment was required to the extent that the goods and services were used for making taxable supplies.

Some transitional rules relate to specific aspects of the changes discussed above.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. Input GST is not recoverable to the extent that the capital goods are purchased by a business for private use. Similarly input GST is not recoverable to the extent that capital goods are used to make exempt supplies

(assuming the value of the exempt supplies is more than NZ\$90,000 or 5% of the total supplies made by the registered person). The calculation is based on the straight-line depreciation of the asset (based on tables published by the Inland Revenue) applied to the lower of the cost or the current market value of the asset.

For capital goods acquired before 1 April 2011, a limit applies to the number of GST adjustments required to be made to reflect the taxable use of the capital assets. For capital goods acquired on or after 1 April 2011, the number of GST adjustments required is determined by reference to the value of the capital goods.

**Refunds.** If the amount of input GST recoverable in a period exceeds the amount of output GST payable, a refund may be claimed. GST refunds are generally made within 15 working days after the Inland Revenue receives a correct return unless the Inland Revenue investigates the return and determines that the registered person has not complied with its GST obligations.

### **G. Recovery of GST by nonestablished businesses**

Only entities registered for GST purposes that are making taxable supplies in New Zealand may recover GST incurred on acquired goods and services. Refunds are not made to foreign entities that are not registered for GST.

### **H. Invoicing**

**Tax invoices and credit notes.** A New Zealand-registered person must generally provide a tax invoice for all taxable supplies made to other taxable persons within 28 days after a request for the invoice. A tax invoice is generally required to support a claim for deduction of input tax for items that cost more than NZ\$50 (including GST).

A credit note may be used to reduce the GST charged and reclaimed on a supply if the value originally charged was incorrect. A credit note must indicate the reason why it was issued and must refer to both the GST originally charged and the corrected amount.

**Replacement invoices.** The government has proposed a special rule regarding replacement invoices for the GST transitional period. Under this proposed rule, if a registered person is required on or after 1 October 2010 to issue a credit note or debit note relating to a tax invoice provided before 1 October 2010, the registered person may choose to provide a replacement tax invoice indicating GST at a rate of 12.5% rather than issuing a credit note or debit note.

**Foreign-currency invoices.** Invoices must be issued in New Zealand dollars. If a tax invoice is issued in foreign currency, the values used for GST purposes may be converted to New Zealand dollars based on the exchange rate in effect at the time of supply.

### **I. GST returns and payment**

GST returns are generally submitted monthly or bimonthly. Two cycles of bimonthly returns are provided to stagger submission



dates. A taxable person may request a change in its GST return cycle to ease administration.

A registered person whose taxable turnover exceeds NZ\$24 million in a 12-month period must submit GST returns monthly. Other taxable persons may opt to submit GST returns monthly if they receive regular repayments of GST or if they find it easier to account for GST on a monthly basis.

A registered person whose annual taxable turnover does not exceed NZ\$500,000 may submit GST returns on a six-months' basis.

GST return periods generally end on the last day of the month. However, taxable persons may request different periods to align with their accounting records. GST return and payment due dates fall on the 28th day of the month following the end of the return period, except for the periods ending 30 November and 31 March. The due dates for these periods are 15 January and 7 May, respectively. The GST return form indicates the due date for each return.

For registered persons that are provisional taxpayers, provisional installment dates should coincide with the GST return due dates. A provisional taxpayer is a person that pays its anticipated yearly income tax liability in installments during the income year.

**Penalties.** A penalty is assessed for the late payment of GST. A penalty of 1% of the tax due is assessed on the day after the due date. If the tax remains outstanding, the following additional penalties apply:

- 4% of the tax that is due 7 days after the due date
- 1% of the tax due each month that the tax remains unpaid

A late filing penalty may be imposed, effective from 1 April 2008. The amount of the late filing penalty is NZ\$250 if the registered person accounts for GST payable on an invoice basis or NZ\$50 if the registered person is using the payments basis.

Penalties are also assessed for underpayments of GST. This "shortfall penalty" is assessed as a fixed percentage of the tax due, depending on the nature of the error, in the following amounts:

- Lack of reasonable care: 20% of the tax due
- Gross carelessness: 40% of the tax due
- Tax evasion: 150% of the tax due
- Adopting an abusive tax position: 100% of the tax due

Penalties may be reduced in certain circumstances by up to 75%.

A reduction of the shortfall penalty to zero may apply if the penalty is imposed for not taking reasonable care and if the registered person makes a voluntary disclosure before notification of an Inland Revenue audit or investigation.

In addition, interest is calculated for underpayments and overpayments of GST. The current rate of interest is 8.89% for underpayments and 2.18% for overpayments. Interest rates are subject to change.

A range of GST offenses are subject to fines and imprisonment, depending on the offense committed. The maximum fine is NZ\$50,000.

# Nicaragua

(Country code 505)

Please direct all inquiries regarding Nicaragua to the persons listed below in the San José, Costa Rica office of Ernst & Young.

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	21 December 1984 (revised 6 May 2003)
European Union (EU) member state	No
Administered by	Ministry of Finance (Ministerio de Hacienda y Crédito Público) ( <a href="http://www.dgi.gob.ni">http://www.dgi.gob.ni</a> )
VAT rates	
Standard	15%
Other	Zero-rated and exempt
VAT number format	Taxpayer identification number (RUC)
VAT return periods	Monthly (two weeks for large taxpayers)
Thresholds	
Registration	None
Special VAT filing	Gross annual income below C\$480,000 (approximately US\$22,119.81)
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The transfer and supply of goods
- The supply of services within Nicaragua
- The importation of goods

## C. Who is liable

No separate VAT registry exists in Nicaragua. All businesses must register as taxpayers. The taxpayer identification number (RUC) is also used for VAT purposes. A taxpayer for VAT purposes is any entity or individual that engages in taxable operations in Nicaragua.

Individuals whose annual gross income from the sale of goods or rendering of services does not exceed C\$480,000 (approximately US\$21,020) may file a special VAT return and pay VAT on a presumptive basis.

**Group registration.** Grouping of separate legal entities for VAT purposes is not allowed under the Nicaraguan VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses and tax representatives.** A “nonestablished business” is a business that has no fixed establishment in Nicaragua. In principle, a nonestablished business must register for VAT if it supplies goods or services in Nicaragua. To register for VAT, a nonestablished business must provide the VAT authorities with a copy of its articles of incorporation, legalized by a Nicaraguan consulate, together with an official translation in Spanish.

**Late-registration penalties.** In case of late registration, a penalty between 30 and 50 penalty units may be assessed. A penalty unit equals approximately US\$1.10.

## D. VAT rates

The standard rate of VAT is 15%. It applies to the transfer and supply of all goods or services, unless a specific measure applies, such as zero rating for exportations or an exemption. Exempted activities do not give rise to a right of input tax (See Section F).

The following table lists examples of exempted supplies of goods and services (this list is not exhaustive).

### Examples of exempt supplies of goods and services

- Live animals and fresh fish
- Domestically produced fruits and vegetables that are unprocessed
- Basic foodstuffs, such as corn tortillas, rice, beans, certain dairy products, eggs and meat
- Used goods (unless imported)
- Crude oil
- Real estate transactions
- Life and health insurance
- Domestic transport
- Education
- Certain financial services
- Construction of social housing (as defined by law) and leasing of unfurnished accommodation

Equipment used for agriculture  
Irrigation for agriculture and forestry  
Electricity used for irrigation  
Importation of goods, machinery and equipment for use by the media  
Books, newspapers and magazines  
Medicines and vaccines  
Local production of sanitary protection products and toilet paper  
Matches, kerosene, butane and electricity  
Veterinary products  
Insecticides, fungicides, fertilizers and seeds  
Exports are zero-rated for VAT purposes.

### **E. Time of supply**

The time when the taxable event is considered to have taken place and when VAT becomes due, is called the “tax point.” Under the Fiscal Equity Law, for VAT purposes, the taxable event varies depending on the type of supplies. The applicable rules are summarized below.

**Goods.** The time of supply for the sale of goods is when the invoice or corresponding legal document is issued or when the goods are delivered.

**Services.** The time of supply for the rendering of services is when the purchaser becomes legally liable for payment.

**Imported goods.** The time of supply for the importation of goods is when the goods are made available to the importer at the fiscal warehouse.

### **F. Recovery of VAT by taxable persons**

A taxpayer may recover input tax, which is VAT paid on the purchase of goods and services used to generate other goods and services subject to VAT. Input tax is generally credited against output tax, which is VAT charged or collected on the sale of goods or the rendering of services. To deduct or credit input tax, all of the following conditions must be satisfied:

- The goods or services must be part of the economic process of transferring goods or providing services. This measure also applies to zero-rated operations.
- The payment must meet the deductibility requirements for income tax purposes even if the taxpayer is not subject to income tax.
- The payment must be adequately documented.

**Refunds.** If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxpayer may carry forward VAT credits to offset output tax in subsequent VAT periods. Exporters and taxpayers that provide exempted activities may use their excess credits to offset other taxes (such as income tax) and then may request a refund.

### **G. Recovery of VAT by nonestablished businesses**

Nicaragua does not refund VAT incurred by foreign or nonestablished businesses unless they are registered as Nicaraguan VAT taxpayers.

**Diplomats and international organizations.** Diplomatic consular delegations and international organizations and agencies are exempt from VAT. Consequently, these organizations are also entitled to a reimbursement for VAT paid in Nicaragua if reciprocal treatment is granted to delegates from Nicaragua.

## H. Invoicing

**VAT invoices and credit and debit notes.** A taxpayer must generally provide a VAT invoice for all taxable activities. An invoice is generally necessary to support a claim for an input tax credit.

A credit note may be used to reduce the VAT charged and reclaimed on a supply if the value is reduced for any reason (for example, a discount or bonus is granted, the price is changed, or the goods are returned). A credit note must generally include the same information as a tax invoice.

VAT is not chargeable on supplies of exported goods.

**Foreign-currency invoices.** Transactions must be registered in Nicaraguan córdobas (C\$).

## I. VAT returns and payment

**VAT returns.** VAT returns must be submitted on a monthly basis. Monthly returns must be submitted by the 15th day of the month following the end of the return period. However, large taxpayers must also make an advance payment of VAT within the first 15 days after the end of the VAT return period. They must make the full payment of VAT within five days after the advance payment.

Return liabilities must be paid in Nicaraguan córdobas.

**Penalties.** Interest is charged on the tax due at a rate of 5% per month for the late submission of a VAT return. In addition, a penalty fine applies, computed as a minimum of 70 units of fine, with a cap of 90 units of fine (each unit equals C\$25).

Other penalties may also apply, including a 25% penalty and surcharges ranging from 5% to 50%, both computed on the amount of unpaid VAT.

**Tax evasion.** Tax evasion that does not constitute fraud is deemed to occur if the taxpayer files an inaccurate return that results in the underpayment of VAT. The penalty for tax evasion is 100% of the VAT amount due.

**Tax fraud.** Tax fraud is deemed to exist when information has been altered in a manner that causes the tax authorities to incorrectly compute the amount of VAT due. Tax fraud is punishable by a term of imprisonment from six months to eight years.

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## Nigeria

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	24 August 1993
European Union (EU) member state	No
Administered by	Federal Inland Revenue Service (FIRS)
VAT rates	
Standard	5%
Others	0% and exempt
VAT number format	01012345-0001
VAT return periods	Monthly
Registration thresholds	None
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- Supplies of goods and services other than those specifically exempt under the VAT Act
- Goods and services imported into Nigeria

**C. Who is liable**

**Taxable persons.** Taxable persons are persons that make supplies of goods and services. They are expected to register for VAT. The following are examples of taxable persons:

- Individuals or bodies of individuals, families, corporations with one shareholder, trustees or executors that carry out economic activities
- Persons exploiting tangible or intangible property for the purpose of obtaining income from the property in the course of a trade or business, including persons from or agencies of the government performing such actions

The following are required to deduct VAT on their suppliers' invoices and remit the VAT to the FIRS:

- Oil and gas companies including oil-service companies
- Governments and government agencies and departments
- Resident entities engaging in transactions with nonresidents

**Group registration.** The Nigerian law does not provide for group registration.

**Nonestablished businesses.** A nonestablished business carrying on business in Nigeria is required to register for VAT using the address of the Nigerian customer with which it has a contract.

**Late-registration penalties.** The VAT Act provides for a late-registration penalty of NGN 10,000 for the first month and NGN 5,000 for every subsequent month in which the default continues.

## D. VAT rates

The standard rate of VAT is 5% of the invoiced amounts for taxable goods and services including imported goods. Certain goods and services are zero-rated or exempt from tax.

The following tables list examples of goods and services that are exempt and goods and services that are zero-rated (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

All exported goods and services  
 Medical goods and services and pharmaceutical products  
 Basic food items  
 Books and educational materials  
 Plant, machinery and goods imported for use in free-trade zones  
 Plant, machinery and equipment purchased for the utilization of gas in downstream petroleum operations  
 Tractors, plows and agricultural implements purchased for agricultural purposes  
 Services rendered by community banks and mortgage institutions  
 Plays and performances by educational institutions as part of learning

### Examples of goods and services taxable at 0%

Non-oil exports  
 Goods and services purchased by diplomats  
 Goods purchased for humanitarian donor-funded projects

## E. Time of supply

The time when VAT becomes due is called the “time of supply.” The VAT Act does not define “time of supply.” In practice, the “time of supply” is the date on which the related invoice is issued or payment is made, whichever is earlier.

## F. Recovery of VAT

A taxable person may recover input tax that is charged on business purchases by offsetting it against output VAT which is charged on taxable supplies. If the input VAT exceeds the output VAT, the taxable person is allowed to claim a refund of the excess input VAT. An input VAT refund may be claimed in any of the following manners:

- Credit method
- Direct cash refund
- By both credit method and direct cash refund

The most common practice is the credit method under which the taxable person may offset the excess input VAT against the output VAT in the subsequent month.

Input VAT is recoverable if it relates to goods purchased or imported directly for resale and goods which form the stock-in-trade used for the direct production of any new product on which the output tax is charged. Refund is also available for input VAT paid on zero-rated goods and services.

**Nondeductible input tax.** A taxable person cannot reclaim VAT paid on goods and services used for nonbusiness purposes. In addition, input VAT incurred on the purchase of fixed assets and expenses such as general administration and overhead costs, cannot be recovered from output VAT. Recovery of input VAT is not allowed with respect to the supply of services and exempt supplies.

VAT on capital expenditure must be capitalized together with the cost of the assets, while VAT on general administration, overhead, and services must be expensed in a company's profit-and-loss account.

**Refunds.** The FIRS Establishment Act provides for a cash refund within 90 days, subject to appropriate audit by the FIRS.

## G. Invoicing

A taxable person that makes a taxable supply is required to furnish the purchaser with a tax invoice for that supply, which contains the following:

- Taxpayer's identification number
- Name and address
- VAT registration number
- Date of supply
- Name of purchaser or client
- Gross amount of transactions
- Tax charged and the rate applied
- Type of supply
- Quantity of goods and services supplied
- The rate of any cash discount offered

A tax invoice must be issued at the time of supply, regardless of whether payment is made at the time of supply.

VAT is payable in the currency of the transaction.

## H. VAT returns and payments

**VAT returns.** VAT returns must be submitted monthly on VAT Form 002. A taxable person is required to submit a VAT return on or before the 21st day of the month following the month in which supplies are made. A taxable person must pay the tax due by the due date when filing the VAT returns. Payment must be made via a bank certified check or draft through designated banks to the local tax office which issues a receipt after confirmation of such payment.

The VAT return must be accompanied by a schedule containing details of the supplies made and received within the tax period.



**Penalties.** The following penalties may be issued with respect to VAT:

- Failure to issue tax invoice: Fine of 50% of the cost of the goods or services for which a tax invoice was not issued
- Failure to maintain proper records: NGN 2,000 for every month in which the failure continues
- Failure to submit returns: Fine of NGN 5,000 for every month in which the failure continues
- Failure to remit VAT: 5% per year of the amount of tax not remitted plus interest at the bank lending rate

The VAT Act provides a penalty of 5% for late remittance of VAT. The FIRS Establishment Act provides a penalty of 10% for late payment of any tax (including VAT). Section 68 of the FIRS Establishment Act gives it supremacy over other tax laws. However, in practice, the FIRS applies a penalty of 5% for VAT.

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## Norway

(Country code 47)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Merverdiavgift
Date introduced	1 January 1970
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.skatteetaten.no">http://www.skatteetaten.no</a> )
VAT rates	
Standard	25%
Reduced	8%/15%
Other	Zero-rated (or exempt with credit) and exempt without credit
VAT number format	123 456 789 MVA

VAT return periods	Bimonthly (with the possibility for shorter periods) Annual (for farmers and fishermen; optional for other businesses if taxable turnover does not exceed NOK 1 million)
Thresholds	
Registration	NOK 50,000 (NOK 140,000 for some charitable and nonprofit organizations)
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Norway by a taxable person
- Withdrawals of goods from a registered enterprise or an enterprise with a registration obligation for a use outside the scope of the VAT Act and withdrawals of services from a registered enterprise or an enterprise with a registration obligation for a private use or for a purpose that falls outside the scope of the enterprise as a whole
- Purchase of intangible or remote supply services from abroad by a Norwegian taxable person or public body
- The importation of goods, regardless of the status of the importer

The application of delivery terms affects the deemed place of supply for goods. The supply of services in Norway related to goods or real property is deemed to be liable to VAT in Norway.

## C. Who is liable

A taxable person is any business entity or individual that makes taxable supplies of goods or services in Norway, in the course of a business.

The VAT registration threshold is NOK 50,000 during a 12-month period. However, for charitable bodies and some nonprofit organizations, the 12-month threshold is NOK 140,000. Special rules also apply to certain partnerships, trading companies and corporations.

**Voluntary registration.** Norwegian VAT legislation provides an option for voluntary registration for VAT purposes for certain activities. For example, voluntary registration is available for leasing property for use by a taxable business.

**Group registration.** The Norwegian VAT Act provides that “collaborating companies” may form a VAT group. Group registration may apply if one or more companies own at least 85% of the capital in each company and if the companies are collaborating. Special issues arise for groups of companies with foreign presence.

The VAT authorities must be notified before a VAT group may be formed or dissolved.

Members of a VAT group are regarded as one taxable person liable to payment of VAT. All of the participating companies are

jointly and severally liable for the correct payment of VAT. Transactions between companies within a VAT group are generally not subject to VAT. However, the withdrawal of taxable goods or services from a taxable part of the group's business may be subject to VAT.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Norway. A nonestablished business must register for VAT if it makes taxable supplies of goods or services in Norway in excess of the registration threshold.

**Electronic services.** Effective from 1 July 2011, nonresidents who supply electronic services to final consumers in Norway (B2C supplies) are required to register for VAT and charge VAT on services supplied to Norwegian consumers. For these purposes, electronic services include the supply of e-books, films, music and software. To coincide with this change, a new form of foreign VAT registration, which is intended to be less burdensome in terms of administration, has been introduced for overseas companies affected by the changes. As an alternative to the use of a fiscal representative, simplified registration and reporting arrangements based on the EU system (one-stop-scheme) have been established.

**VAT representatives.** If a nonestablished business is required to register for VAT in Norway, it must appoint a resident tax representative, unless it maintains a place of business or a registered office in Norway.

**Late-registration penalties.** No specific penalty applies to late VAT registration in Norway. However, penalties are assessed if, as a result of the late registration, a taxable person submits a late VAT return or pays VAT late.

## D. VAT rates

The term “taxable supplies” refers to all supplies of goods and services that fall within the scope of the Norwegian VAT Act, including zero-rated supplies. In Norway, the term “exempt with credit” is also used for zero-rated supplies. This means that no VAT is chargeable, but the supplier may recover input VAT related to the supplies. The terms “exempt” and “outside the scope” are used for supplies of goods and services that are not liable to VAT and that do not give rise to a right of input tax deduction (see Section F).

The following are the VAT rates in Norway:

- Standard rate: 25%
- Reduced rates: 8% and 15%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

**Examples of exempt supplies of goods and services  
(also called outside the scope of the VAT Act)**

Financial services  
Insurance  
Lease of residential property  
Medical services  
Educational services  
Real estate transactions  
Specified cultural and sporting events

**Examples of goods and services taxable at 0%**

Exports  
Supplies to foreign ships, and aircraft and ships involved in foreign trade  
Books and newspapers  
Transfer of a business as a going concern  
International transportation services (goods and passengers)

**Examples of services taxable at 8%**

Domestic passenger transportation services (excluding the leasing of vehicles as such)  
Television licenses  
Hotel accommodation  
Museums  
Amusement parks  
Galleries  
Bigger sport events

**Examples of goods and services taxable at 15%**

Food (excluding alcohol and tobacco, and supplies in restaurants)

## **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed. The time of payment does not generally affect the time of supply. If a customer makes an advance payment, the general rule is that the tax point remains the date of delivery of the goods or the date of performance of the services.

The supplier may defer the time of supply by issuing an invoice. In general, an invoice may be issued up to one month after the date of delivery of goods or performance of services. The invoice date then becomes the tax point.

Deliveries that are invoiced monthly may be invoiced within the first fifteen working days of the month following the month of delivery.

Services that are supplied on a continuous basis must be invoiced within one month after the end of the ordinary VAT period in which the delivery takes place.

For services that are delivered on the basis of metered consumption (for example, electricity and telecommunications), sales documentation may be issued for longer periods, up to a maximum period of one year.

For services that are delivered on the basis of a tender or an equivalent pre-agreed price, the parties may agree on the sales documentation, unless the agreed invoicing deviates materially from the actual progress of the service delivery.

Sales documentation for certain services, such as passenger transportation or leases, may be issued in advance.

**Reverse-charge services.** VAT payable through the reverse-charge mechanism is due on the date of the invoice if the invoice is issued in accordance with the generally accepted accounting principles in the country of the service provider.

## **F. Recovery of VAT by taxable persons**

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

Input VAT includes VAT charged on goods and services supplied in Norway, VAT paid on imports of goods and VAT self-assessed for reverse-charge services received from outside Norway.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice. Consequently, VAT may not be deducted as input VAT before a VAT invoice is received. Input VAT that is not properly documented may not be deducted. The input VAT deduction must be reported in the VAT period in which the invoice is dated.

Effective from 1 January 2011, a deduction of input VAT may be granted only if the payment is made through a bank or similar financial institution, unless the total payment is less than NOK 10,000.

**Nondeductible input VAT.** Input VAT may not be recovered on purchases of goods and services that are not for use in a business that is subject to VAT (for example, goods acquired for private use).

In addition, input VAT may not be recovered for some items of business expenditure. The following tables provide examples of items of expenditure for which input VAT is not deductible and examples of items for which input VAT is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### **Examples of items for which input VAT is nondeductible**

Tobacco and alcohol  
 Personal expenses  
 Business entertainment  
 Restaurant meals  
 Purchase and maintenance of passenger vehicles, with certain exemptions for taxi and car-lease companies  
 Gifts and handouts for advertising purposes if the value is at least NOK 100 inclusive of VAT

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

Advertising  
 Purchase, lease and hire of vans and trucks not for private use  
 Fuel for vans and trucks not for private use

## Conferences

Business use of home telephones and mobile telephones

Passenger transportation services that are not for private use

**Partial exemption.** Input VAT directly related to making exempt supplies is generally not recoverable. If a Norwegian taxable person makes both exempt supplies and taxable supplies, it may not deduct input VAT in full. This situation is referred to as “partial exemption.” Exempt with credit supplies are treated as taxable supplies for these purposes.

Input VAT incurred on purchases that are used for both taxable and exempt supplies must be apportioned to reflect the supplies that carry the right to deduction and those that do not carry such right. The apportionment may also be calculated based on the ratio of taxable supplies to exempt supplies in the preceding financial year if the preceding financial year is representative of the normal pattern of trading.

**Refunds.** If the amount of VAT recoverable in a bimonthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund claim is triggered automatically if the VAT return shows a VAT credit. Refunds are generally processed within three weeks after the date on which the VAT authorities receive the VAT return. The VAT authorities pay interest on refunds that are paid late. The interest rate is revised on 1 January of each year, based on the key rate of the Norwegian State Bank. The annual interest rate is 2%, as of 1 January 2011.

## G. Recovery of VAT by nonestablished businesses

The Norwegian VAT authorities refund VAT incurred by businesses that are neither established in Norway nor registered for VAT there. A nonestablished business may claim Norwegian VAT to the same extent that a Norwegian taxable person may deduct input VAT incurred in the course of a similar business in Norway.

Norway does not apply the reciprocity principle to refunds. Consequently, it does not exclude claimants based on the country where they are established.

**Refund application.** A claimant must submit the following documentation to obtain a VAT refund:

- Application Form RF 1032.
- Under the general rule, the original VAT invoices.
- A power of attorney if the claimant uses the services of a third party to recover the VAT.
- A certificate of taxable status obtained from the competent tax authorities in the country in which the claimant is established. The certificate, which is valid for 12 months from the date of issuance, must be completed, signed and stamped by the local tax authorities.
- If the claim relates to goods that are located in Norway at the time of submission of the claim form, an explanation of the basis on which the refund is requested.

The deadline for submitting applications is 30 June following the claim year. This deadline is strictly enforced. The forms must be

completed in Norwegian, Danish, English or Swedish. The minimum claim period is a calendar quarter, and the maximum claim period is one calendar year. The minimum claim amounts are NOK 2,000 for a quarter and NOK 200 for an annual claim.

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

Skatt Øst – Moss  
Postboks 103  
N-1501 Moss  
Norway

**Repayment interest.** Claims for VAT refunds are generally paid within six months. Interest is not paid on late refunds.

## H. Invoicing

**VAT invoices and credit notes.** Under the general rule, VAT invoices and credit notes must be issued by the supplier. A Norwegian taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. Invoices must support claims for input tax made by Norwegian taxable persons and VAT refunds claimed by nonestablished businesses.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The document should be marked “credit note” and it must refer to the original invoice.

**Proof of exports.** Goods and services exported to countries outside Norway or supplied to the Norwegian areas of Jan Mayen and Svalbard are exempt from VAT with input tax credit. To qualify as VAT-free, the supplier must prove that the goods have been exported. Suitable proof includes the following documents:

- The Customs Single Administrative Document
- Shipping documents or the import declaration from the country of import

**Foreign-currency invoices.** If an invoice is issued in a foreign currency, the VAT must be stated in Norwegian kroner, using the official exchange rate for the date of the invoice. No other exchange rate may be used for VAT purposes. Other amounts shown on the invoice may be stated in other currencies.

## I. VAT returns and payment

**VAT returns.** In general, Norwegian taxable persons file bimonthly VAT returns. However, farmers and fishermen must file returns annually. Businesses with taxable turnover of less than NOK 1 million may opt to file annual returns.

VAT groups submit a single, joint VAT return.

To ease cash flow, businesses that receive regular VAT refunds may request shorter VAT return periods. Taxable persons must contact the appropriate VAT office to register for annual returns or for permission to use shorter VAT return periods.

For bimonthly VAT returns, the VAT due for each period must be reported and paid in full within 1 month and 10 days after the end of the VAT period. Return liabilities must be paid in Norwegian kroner.

**Penalties.** Penalty interest is assessed for late payment of VAT. The interest rate is announced twice a year in a decree issued by the Ministry of Finance. The annual interest rate as of 1 July 2011 was 9.25%. The minimum penalty is NOK 100. The interest rate was last changed on 1 July 2011. An additional penalty of up to 100% of the tax due for a period may be imposed on taxable persons that willfully or negligently contravene the provisions of the VAT Act. Penalties may also be assessed for failing to submit VAT returns.

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### A. At a glance

Name of the tax	Sales tax
Date introduced	1 November 1990
Administered by	Federal Board of Revenue ( <a href="http://www.fbr.gov.pk">http://www.fbr.gov.pk</a> )
Sales tax rates	
Standard	16%
Higher	19.5%/22%
Reduced	4%/6%
Other	Zero-rated and exempt
Sales tax number format	11-11-1111-111-11
Sales tax return periods	Monthly, quarterly and annual
Thresholds	
Registration	
Manufacturers	PKR 5 million or utility bills exceed PKR 700,000
Retailers	PKR 5 million
Recovery of sales tax by nonestablished businesses	No



## B. Scope of the tax

Sales tax applies to the following transactions:

- Taxable supply of goods made in Pakistan in the course of a taxable activity carried on by a taxable person
- Taxable import of goods into Pakistan
- Rendering services, as specified by law

Services liable to sales tax include the following activities performed in Pakistan:

- Services provided by clubs and caterers
- Services provided by hotels
- Services provided by customs agents, ship chandlers and stevedores
- Courier services
- Television and radio advertising, excluding public service messages and government health education announcements

Federal excise duty is levied and collected using the sales tax mechanism on the following excisable goods and services:

- Edible oil
- Vegetable ghee and cooking oil
- Advertising on closed circuit television
- Advertising on cable television networks
- Advertisements in newspapers and periodicals (excluding classified advertisements) and on hoarding boards, pole signs and sign boards (exclusions apply)
- Domestic travel by air
- Carriage of goods by air
- Services rendered by shipping agents
- Telecommunication services (exclusions apply)
- Services provided by banking and nonbanking financial companies (exclusions apply)
- Services provided by insurance companies (exclusions apply)
- Services provided by stockbrokers
- Services provided by port and terminal operators with respect to imports excluding stevedoring services
- Franchise services

**Recent reform.** Under the Constitution of Pakistan the provinces have the right to impose sales tax on services. In the past the provinces granted the right to the federal government to collect on their behalf sales tax on services. Consequently, the Federal Board of Revenue administered and collected sales tax on services.

However, effective from 1 July 2011, one of the provinces, Sindh (where Karachi is located) collects and administers sales tax on services through the Sindh Revenue Board, which is a separate provincial revenue board. The other provinces continue to empower the Federal Board of Revenue to collect and administer sales tax on services on their behalf. As a result of the change described above, service providers having places of business both in Sindh and in other provinces are now required to file two separate sales tax returns and make two separate sales tax payments. In addition to the taxable services as listed above, the Sindh Sales Tax on Services Act, 2011 imposes sales tax on certain services that are not taxable in the other provinces. These services include the following:

- Other advertisements, such as on the Internet

- Services provided or rendered by persons engaged in contractual execution of work or furnishing supplies
- Construction services
- Services rendered by money exchangers

### C. Who is liable

A taxable person is a business that is required to register for sales tax. Taxable persons include the following:

- Manufacturers whose taxable turnover in the preceding 12 months exceeded PKR 5 million or whose utility bills (gas, electricity and telephone) exceeded PKR 700,000
- Retailers whose taxable and nontaxable turnover in the preceding 12 months exceeded PKR 5 million
- Importers
- Wholesalers (including dealers) and distributors
- Commercial exporters
- Businesses that supply taxable services

Sales tax registration is required for every taxable person. Supplying taxable goods without a sales tax registration is tax fraud.

**Deregistration.** A business that ceases operations or whose supplies become exempt from sales tax must apply for cancellation of its sales tax registration.

**Late-registration penalties.** A penalty of PKR 10,000 or 5% of the tax due, whichever is greater, is assessed for failure to register for sales tax. Failure to register within 60 days after beginning a taxable activity may be punishable by a term of imprisonment of up to three years, if the person is convicted by a Special Judge, or by a fine of up to the amount of tax involved, or both.

### D. Sales tax rates

The term “taxable supplies” refers to supplies of goods and services and to imports that are liable to sales tax. The following are the sales tax rates:

- Standard rate: 16%
- Other rates: 4%/6%/19.5%/22%
- Zero rate (0%)

The standard tax rate of 16% is imposed on the value of the supply of goods. However, in certain cases, the value of the supply of certain goods is based on the manufacturer’s retail price (not the sales price). Export supplies are zero-rated (that is, taxed at 0%). The zero rate also applies to imports by and local supplies made to businesses operating in certain export-oriented sectors. Certain activities are exempt from sales tax. This means that no sales tax is chargeable but the supplier has no right to claim input tax on related purchases (see Section F). Certain goods are subject to the higher sales tax rates of 19.5% or 22%, and telecommunication services are subject to a higher rate of 19.5%. A 16% rate applies to services.

The following tables list examples of exempt and zero-rated goods and goods taxed based on the manufacturer’s retail price (these lists are not exhaustive).

#### Examples of exempt supplies of goods

Agricultural products, including milk, eggs, fish, meat and fresh vegetables

Pharmaceuticals

Newspapers and books  
 Educational and scientific materials  
 Equipment for fighting AIDS and cancer

**Examples of zero-rated supplies of goods**

Exports  
 Supplies to diplomats, diplomatic missions, privileged persons and privileged organizations  
 Supplies made under international tenders  
 Supplies of stores and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan  
 Imports and supplies by certain registered export-oriented sectors, which are leather and textiles goods, carpets, sports goods, and surgical goods

**Examples of goods taxed based on the manufacturer's retail price**

Fruit juices and vegetable juices  
 Ice cream  
 Aerated water or beverages and drink syrups  
 Cigarettes  
 Toilet soap, detergents, shampoo, toothpaste and shaving cream  
 Perfumery and cosmetics  
 Tea  
 Powder drinks and milky drinks

**Examples of goods taxed at the higher rate of 19.5%**

Flat rolled products of iron or nonalloy steel, stainless steel and other alloy steel

**Examples of goods taxed at the higher rate of 22%**

Certain chemicals  
 Certain paper and paperboard  
 Certain types of glass  
 Certain plastics and polymers  
 Pig iron, ferroalloys and refined lead  
 Aluminum  
 Asbestos

**Special provisions for importers.** Importers must pay additional sales tax at a rate of 3% above the normal sales tax rate payable at the import stage. The 3% tax is considered as a minimum value addition tax and can be claimed as input tax. Any excess input tax can be carried forward. However, it is not refundable. The 3% tax does not apply to goods that are imported by a manufacturer for in-house consumption.

**Special provisions for retailers.** Persons registered as retailers must pay sales tax and income tax on a combined basis (without any adjustment for input tax). The following are the rates.

<b>Quarterly turnover</b>	<b>Sales tax rate</b>
Up to PKR 1,250,000	Nil
More than PKR 1,250,000 and up to PKR 2,500,000	0.5% of turnover in excess of PKR 1,250,000
More than PKR 2,500,000	PKR 6,250 plus 0.75% of turnover exceeding PKR 2,500,000

**Payment of extra tax on specified electrical home appliances.**

Under special procedures, in addition to the general rate of sales tax, an extra amount of sales tax at the rate of 0.75% of the value of supply is chargeable on supplies by manufacturers and importers of the following electrical home appliances:

- Television sets
- Refrigerators
- Freezers
- Air conditioners
- Electric ovens
- Microwave ovens
- Washing machines
- Spin dryers
- Compact disc (CD) and digital versatile disc (DVD) players

The above electrical goods on which extra tax has been paid are exempt from payment of sales tax on subsequent supplies, including supplies made by retailers.

**E. Time of supply**

The time when sales tax becomes due is called the “time of supply” or “tax point.” In general, the time of supply is when goods are delivered or services are performed.

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

**F. Recovery of sales tax by taxable persons**

A taxable person may recover input tax, which is sales tax charged on taxable goods and taxable services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is sales tax charged on supplies made. For manufacturers and service providers (with certain exceptions), the registered person may not claim input tax in excess of 90% of the output tax for that tax period. However, any excess may be carried forward.

Input tax includes sales tax paid on goods and services purchased in Pakistan and on goods imported into Pakistan, and federal excise duty levied and collected using the sales tax mechanism.

Input tax must generally be claimed in the month in which the invoice is issued. However, for electricity and gas supplies, the input tax must be claimed in the month in which the invoice is paid. A separate claim must be made for input tax that is not claimed in the correct tax period.

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

**Non deductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

The following table sets out items of expenditure for which input tax is not deductible.

**Examples of items for which input tax is nondeductible**

Purchases used for nonbusiness purposes  
 Business gifts  
 Business and staff entertainment  
 Purchase of vehicles

**Refunds.** If the amount of input tax in a sales tax period exceeds the output tax in the same period, the excess credit is refundable. In practice, refunds are generally available to persons that are engaged in making zero-rated supplies.

**G. Recovery of sales tax by nonestablished businesses**

Pakistan does not refund sales tax incurred by foreign businesses that are neither established nor registered for sales tax in Pakistan.

**H. Invoicing**

**Sales tax invoices and credit notes.** A taxable person must generally provide a sales tax invoice or cash memo for all taxable supplies made. A simplified tax invoice or cash memo is required for retail sales.

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

A credit note may be used to reduce the sales tax charged and reclaimed on a supply of goods or services if a valid adjustment is made. The document must be clearly marked “credit note,” must detail the reason for the adjustment, and must refer to the original sales tax invoice for the supply.

**Proof of exports.** Exports of goods are zero-rated for sales tax. However, to qualify as sales tax-free, export supplies must be supported by evidence that the goods have left Pakistan. The required evidence includes the following documents:

- A copy of the goods declaration for export authenticated by customs
- Copy of house and master bill of lading and airway bill or railway receipt
- The original invoices
- A stock or inventory statement
- Any other business records related to the exported goods

**Foreign-currency invoices.** If a sales tax invoice is issued in a foreign currency, the amounts must be converted to Pakistani rupees (PKR). The conversion must be calculated in accordance with the open market exchange rate.

**I. Sales tax returns and payment**

**Sales tax return.** All taxable persons other than retailers must file monthly returns. The return must be filed by the 18th day of the month following the end of the return period. However, the payment of tax must to be made by the 15th day of the month. Retailers must file returns on a quarterly basis by the 15th day of the month following the end of the quarter.

**Sales tax withholding.** Special rules have been prescribed with respect to sales tax withholding. These rules apply to taxable

goods and services that are supplied to the following persons, which are referred to as withholding agents:

- Federal and provincial government departments
- Autonomous bodies
- Public sector organizations
- Taxpayers who fall under the jurisdiction of the Large Taxpayers Unit (LTU)
- Persons registered for sales tax that are recipients of advertising services

The withholding agents listed in the first three bullets above withhold one-fifth of the sales tax with respect to acquired taxable goods or services as shown in the sales tax invoice and make payment of the balance to the registered person.

Sales tax-registered persons who are recipients of advertising services from persons based in Pakistan or abroad must withhold sales tax and pay the balance to the service provider. The sales tax withheld is the amount indicated in the sales tax invoice issued by the service provider. If the sales tax amount is not indicated, the withheld amount must be calculated by applying the tax rate.

Withholding agents referred to in the fourth bullet above are required to withhold and deposit sales tax at a rate of 1% on the value of taxable supplies acquired from registered persons that do not fall under the jurisdiction of the LTU.

**Penalties.** A penalty of PKR 5,000 is assessed for the late submission of a sales tax return. However, if the return is filed within 15 days after the due date, penalty is charged at a rate of PKR 100 per day.

The following defaults are subject to penalties:

- Failure to issue a sales tax invoice: PKR 5,000 or 3% of the tax due, whichever is greater.
- Unauthorized issuance of a sales tax invoice: PKR 10,000 or 5% of the tax due, whichever is the greater.
- Failure to notify changes related to the taxable person's details or taxable activity: PKR 5,000.
- Late payment of sales tax: PKR 10,000 or 5% of the tax due (whichever is greater). However, the penalty is restricted to PKR 500 per day for each day of default if paid within 15 days after the due date. In addition, failure to pay the tax within 60 days after a notice for payment is issued by a sales tax officer may be punished by imprisonment for up to three years if the person is convicted by a Special Judge, or by a fine of up to the amount of tax involved, or both.
- Repeated underdeclarations of sales tax: PKR 5,000 or 3% of the tax due, whichever is greater.
- Failure to maintain accounting records: PKR 10,000 or 5% of the tax due, whichever is the greater.

A penalty of PKR 5,000 or 3% of the tax due, whichever is greater, is assessed for other sales tax offenses.

A penalty of PKR 25,000 or 100% of the tax due, whichever is greater, is assessed for tax fraud, falsifying records, making false statements and declarations, denial or obstruction of access to records and similar offenses. In addition, a person may be punished by imprisonment for up to three years if convicted by a Special Judge, or may be liable for a fine of up to the amount of tax involved, or both.

**Interest.** In addition to any penalty, interest (the default surcharge) is chargeable for the following offenses:

- Late payment of sales tax
- Overclaimed input tax
- Incorrect claim for a sales tax refund
- Incorrect application of the zero rate

The rate of the default surcharge is the Karachi Interbank Offered Rate (KIBOR) plus 3% per annum.

However, for tax fraud, the default surcharge is payable at a rate of 2% per month.

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## Panama

(Country code 507)

*Please direct all inquiries regarding Panama to the persons listed below in the San José, Costa Rica office of Ernst & Young.*

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### Panama

**GMT -5**

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto a la transferencia de bienes corporales muebles y la prestación de servicios (ITBMS)
Date introduced	22 December 1976
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.dgi.gob.pa">http://www.dgi.gob.pa</a> )
VAT rates	
Standard	7%

Higher	10%/15%
Other	Exempt
VAT number format	National Tax Registry Number (RUC)
VAT return period	Monthly
Thresholds	
Registration	Gross annual income of US\$36,000
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods made in Panama by a taxable person
- The leasing of movable goods located in Panama
- Supplies of services
- The importation of goods from outside Panama, regardless of the status of the importer

## C. Who is liable

A taxable person for VAT purposes is an entity or individual that supplies goods and services in the course of doing business in Panama. Taxable persons that are designated as withholding agents for VAT must appoint a legal representative. All persons must register as taxpayers, and no separate register of VAT taxpayers exists.

**Group registration.** Panama does not allow entities controlled by the same economic group to file a single VAT return.

**Nonestablished businesses and tax representatives.** A “nonestablished business” is a business that has no fixed establishment in Panama. A nonestablished business must register for VAT if it supplies goods in Panama. To register, a nonestablished business must file a registration form. A foreign corporation must also submit a copy of its articles of incorporation, legalized by the Panamanian Consul, together with an official translation in Spanish.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods that are liable to VAT. The term “exempt supplies” refers to supplies of goods that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F).

The following are the VAT rates in Panama:

- Standard rate: 7%
- Supplies of alcoholic beverages, such as liquors and beers, and hotels and other lodging services: 10%
- Cigarettes: 15%

The standard rate applies to all supplies of goods and services, unless a specific measure provides for a higher rate or an exemption. The following table lists examples of exempt supplies of goods (this list is not exhaustive).

### Examples of exempt supplies of goods

Supplies made by agricultural producers

Unprocessed fish, meat and game supplied by nonindustrial fishermen and hunters



Exported goods  
 Medical and pharmaceutical products  
 Books  
 Supplies of goods made in a free zone in Panama  
 Supplies of movable goods within an authorized customs warehouse  
 Oil and related products (motor oil is subject to VAT)  
 Groceries  
 Hand tools, fertilizers, insecticides, fungicides and similar products used in agriculture

### **E. Time of supply**

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

For a sale of goods, the tax point is when the invoice is issued or the goods are supplied, whichever is earlier. For services, the tax point is the date on which the invoice is issued, the date on which the services are rendered or the date on which total or partial payment is made, whichever is earlier. For recurring annual services, the tax point is when total or partial payment is made. For a lease of movable property, the tax point is when the parties to the lease enter into the contract.

For supplies of goods made by a company to a manager or legal representative of the company for his or her personal consumption, the tax point is the earlier of when the goods are delivered or when the supply is recorded.

**Imported goods.** The time of supply for imported goods is when the customs return is filed.

### **F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is VAT charged on goods supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on services and supplies made. Input tax includes VAT charged on goods and services supplied in Panama and VAT paid on imports. A valid tax invoice or customs document must generally accompany a claim for input tax credit.

**Refunds.** If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable, the taxable person receives an input VAT credit. The credit may be carried forward to offset output tax in the subsequent VAT period. If it is not possible to offset the input tax credit in the following period, the taxable person may use the excess as a credit in the following fiscal year. VAT credits are not refunded.

**VAT-free purchases by frequent exporters.** A frequent exporter that regularly has VAT credits may request a document called a “cancellation certificate” from the VAT authorities, to help ease cash flow. The exporter may use the cancellation certificate to purchase goods VAT-free, using the tax credit generated by its export activities.

## G. Recovery of VAT by nonestablished businesses

Panama does not refund VAT incurred by foreign or nonestablished businesses that are not registered for VAT there.

## H. Invoicing

**VAT invoices and credit and debit notes.** A taxable person must generally provide a VAT invoice for all taxable services and supplies made, including exports. An invoice is generally necessary to support a claim for input tax credit. For invoicing, special fiscal equipment authorized by the tax authorities must be used.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply if the value is reduced for any reason (for example, the price changes or goods are returned as a result of a discount or bonus). A credit note must generally contain the same information as a tax invoice.

**Exports.** VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by documents that confirm that the goods have left Panama, such as customs documents, export invoices and copies of bills of lading.

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, the amounts must be converted into Panamanian balboas (B/), or U.S. dollars (US\$).

## I. VAT returns and payment

**VAT returns.** All taxpayers must submit VAT returns monthly. Monthly returns must be submitted by the 15th day of the month following the end of the return period. Payment in full is due on the same date.

Return liabilities must be paid in Panamanian balboas or U.S. dollars.

**Penalties.** If a taxpayer does not pay VAT on time, the penalty is 10% of the VAT due plus interest, per month or fraction of a month, from the date the tax should have been paid until the date of payment. The interest rate is 2% over the interest reference rate indicated by the Banking Commission. For the current fiscal year, the applicable interest rate is 0.86%.

A fine of US\$10 may be imposed for late filing if no VAT is due as a result of credits in favor of the taxpayer. Fines of US\$100 to US\$500 may be imposed for filing inaccurate VAT tax returns that do not result in a reduction in the tax payment, issuing invoices without being registered with the tax authorities and failure to comply with regulations regarding the carryforward of tax credits.

VAT returns may be amended only once per fiscal year and within a maximum period of 12 months following the date on which the original VAT return was due. The filing of the amended return costs US\$100 for individuals and US\$500 for legal entities if the amended return is filed more than three months after the due date for the original VAT return. Tax fraud is punished with penalties varying from 5 to 10 times the amount of undeclared VAT or by imprisonment for a period of 2 to 5 years.

## Papua New Guinea

Please direct all requests regarding Papua New Guinea to the following persons in the Brisbane, Australia office:

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The fax number is +61 (7) 3011-3190.

### A. At a glance

Name of the tax	Goods and services tax (GST)
Date introduced	1 January 2004 (value-added tax [VAT] was introduced on 1 July 1999; after the Supreme Court held that the VAT legislation was unconstitutional, GST was introduced on 1 January 2004)
European Union (EU) member state	No
Administered by	Internal Revenue Commission (IRC) ( <a href="http://www.irc.gov.pg">http://www.irc.gov.pg</a> )
GST rates	
Standard	10%
Other	0% and exempt
GST number format	VT
GST return period	Monthly
Thresholds	
Registration	K 250,000 (proposed to be effective from 1 January 2012)
Recovery of GST by nonregistered businesses	No

### B. Scope of the tax

GST applies to the following transactions:

- Taxable supplies of goods and services, which are supplies connected to Papua New Guinea (PNG) or deemed to be supplied in PNG and made for consideration in the course of a taxable activity by an entity that is registered or that is required to be registered for GST
- Reverse-charge on services received from abroad that are made to a registered entity in PNG
- Taxable importations of goods into PNG, regardless of the status of the importer

### C. Who is liable

GST registration is mandatory if either of the following thresholds is met:

- The total value of supplies (excluding exempt supplies) made in PNG in a month and the 11 months immediately preceding that month in the course of carrying on all taxable activities that exceeds K 250,000.
- The projected GST turnover, which is the value of taxable supplies made or likely to be made in the current month plus the next 11 months, is reasonably likely to exceed K 250,000.

**Voluntary registration.** An entity that has turnover below the registration threshold may apply to register for GST voluntarily if the entity is carrying on a taxable activity.

An entity that is a not-for-profit body may apply in writing to the Commissioner General of Internal Revenue to register for GST voluntarily if the entity is carrying on a taxable activity.

**Deregistration.** An entity that ceases to carry on business may request in writing that the Commissioner General of Internal Revenue cancel its GST registration. An entity must notify the PNG IRC that it is no longer entitled to be registered within 21 days after ceasing operations. An entity that is no longer required to be registered may apply to cancel its registration. However, the Commissioner General of Internal Revenue is not required to cancel the registration if a business has been registered for less than 12 months.

**Group registration.** Subject to certain requirements, two or more companies that have an aggregate of common voting interests of 90% or greater constitute a wholly owned group for the purpose of the GST Act and may apply to the Commissioner General of Internal Revenue to form a GST group. The effect of GST grouping is to treat the group members as a single entity for certain purposes. In general, all GST liabilities and input tax credit entitlements for group members are attributed to a representative member of the group, and the group submits a single GST return.

**Branch registration.** A registered person carrying on its activities in branches or divisions may apply in writing to the Commissioner General of Internal Revenue for a branch or division to be registered as a separate registered person. Certain requirements must be met relating to the nature of the activities and accounting systems of proposed GST branches. In addition, a branch of a registered entity may not be registered as a GST branch if the entity is a member of a GST group (see *Group registration*).

**Nonresident entities.** GST applies to taxable supplies and to taxable importations made by nonresidents. Branches of foreign entities carrying on taxable or other activities in PNG are required to register and charge GST with respect to their supplies.

**Reverse charge.** If a service is deemed to be supplied in PNG under the provisions of the GST Act, reverse-charge provisions can apply if all of the following conditions are met:

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

If a resource company makes exempt supplies, the reverse-charge provisions apply.

**Late-registration penalties.** Penalties and interest may be imposed for late registration or failure to register (also, see Section I).

## D. GST rates

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

Exempt supplies are supplies that are not liable for GST, but do not give rise to a right to claim input tax credits for GST included in acquisitions related to the supplies (see Section F).

Zero-rated supplies are supplies not liable for GST that do give rise to a right to claim input tax credits for GST included in acquisitions related to the supplies.

The following tables list examples of exempt supplies and zero-rated supplies of goods and services, subject to the satisfaction of certain conditions (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

Financial services

Certain fine metals

Medical services

Educational services

Public transport and taxis

Newspapers

Supply of housing or motor vehicles by employers to employees

### Examples of zero-rated supplies of goods and services

Sale of going concerns

Supplies of goods and services to foreign aid providers

Supplies of goods and services, other than cars, to resource companies for use only in carrying on resource operations

Supplies of goods and services to nonprofit bodies, which are religious organizations, charity organizations or community organizations carrying on charitable activities approved by the Commissioner General of Internal Revenue, provided that the supplies or goods are not used for profit-making taxable activities

International travel

Exported goods and services

## E. Time of supply

For the purpose of the GST Act, a supply of goods and services is generally deemed to take place at the earlier of the time of issuance of an invoice by the supplier or the recipient or the time of receipt of any payment by the supplier with respect to the supply.

**Accrual basis of accounting.** When an entity registers for GST, it automatically goes on an accruals (or invoice) basis of accounting for GST. For businesses that account for GST on an accrual basis, GST is payable with respect to a taxable supply for the tax period in which the invoice is issued or when any consideration is received for the supply, whichever is earlier.

**Cash or payment basis of accounting.** Entities with annual turnover that does not exceed K 1,250,000 (proposed to be effective from 1 January 2012; the previous amount was K 500,000) may account for GST on a cash basis. Cash accounting is also available to certain entities regardless of turnover. These entities include local authorities, not-for-profit-bodies and other entities subject to the discretion of the Commissioner General of Internal Revenue. Cash accounting is allowed when the Commissioner General of Internal Revenue grants approval in writing.

For entities using cash accounting, GST is payable with respect to a taxable supply in the tax period in which the consideration is received. If only part of the consideration is received in a particular tax period, GST is payable only on that part.

**Prepayments.** The law does not specifically prescribe how prepayments are treated for GST purposes.

**Continuous supplies.** The legislation does not specifically prescribe how a continuous supply is treated for GST purposes. However, it is likely that if a supply is made continuously over a period of time for consideration that is either paid progressively or periodically, the supply would be treated as if each part is separate. GST would then be payable in each tax period in which the consideration is received.

**Imported goods.** GST is payable for imported goods at the time of importation.

## **F. Recovery of GST by registered entities**

A registered entity may recover input tax credits with respect to creditable acquisitions. These credits correspond to the GST included in the consideration for goods and services that a registered entity acquires for creditable purposes. A registered entity generally recovers input tax by offsetting them against GST payable on taxable supplies.

Input tax credits correspond to GST included in the consideration for goods and services acquired in PNG, GST paid on importations of goods and GST paid under reverse-charge arrangements.

In general, valid tax invoices or customs documents must be retained to support claims for input tax credits.

**Exempt supplies (noncreditable acquisitions).** Exempt supplies are purchases of goods and services used to make exempt supplies or acquisitions that are not used for business purposes (for example, goods acquired for private use by an entity or supplies exempted under the GST Act). However, acquisitions related to making some exempt supplies are creditable.

**Refunds.** If the amount of input tax credits in a period exceeds the GST payable in the same period, the excess amount is technically refundable to the taxpayer. However, in practice, it is often necessary to first satisfy the IRC that the refund is valid.

## **G. Recovery of GST by nonregistered businesses**

Only entities that are registered for GST may claim refunds of GST incurred on acquisitions in PNG. In general, entities (including

nonresidents) that make acquisitions in PNG for the purpose of carrying on taxable activities may register for GST if necessary.

## H. Invoicing

**Tax invoices and adjustment notes.** In general, a registered person must provide a tax invoice for all taxable supplies made if requested to do so by the recipient of a supply. A tax invoice is not required for supplies with a GST-inclusive amount of K 50 or less.

In general, a tax invoice is necessary to support claims for input tax credits.

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

**Proof of exports.** Exports of goods are zero-rated (GST-free). To qualify as GST-free, goods must be entered for export under the Customs Act and the Commissioner General of Internal Revenue must be satisfied that the goods have been exported to a place outside Papua New Guinea. Zero-rating applies if the goods are exported within 28 days, unless unforeseeable circumstances delay the shipment of the goods.

**Temporary import of goods.** Goods imported temporarily into PNG under the provisions of the Customs Act are zero-rated for GST purposes and import duty is not applied to these goods. In general, the importer must provide a security bond of 10%. The bond paid for temporary imports is intended to be refunded when the goods are re-exported out of the country. Goods are classified as temporary imports if they are re-exported within 12 months.

If imported goods remain in the country for more than 12 months, the goods are deemed to be permanent imports and the bond and GST are forfeited. Customs then issues a tax invoice for the supply.

**Currency on invoices.** All invoices must be expressed in Papua New Guinea kina.

## I. GST returns and payment

**GST return.** GST liabilities are reported in a GST return. A registered person must file the GST return in the required form on or before the 21st day of the following tax period (a calendar month).

GST liabilities must be paid in Papua New Guinea kina.

**Penalties.** A penalty may be imposed for the late filing of a GST return. Penalties range from fines not exceeding K 5,000 on the first occasion and can increase to as much as K 50,000, depending on the circumstances of the case. Court proceedings may be instituted against a taxpayer in the National Court to recover taxes and penalties.

# Paraguay

(Country code 595)

Asunción

GMT -3

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	1 July 1992
European Union (EU) member state	No
Administered by	Finance Administration ( <a href="http://www.set.gov.py">www.set.gov.py</a> ) ( <a href="http://www.hacienda.gov.py">www.hacienda.gov.py</a> )
VAT rates	
Standard	10%
Reduced	5%
Other	Exempt
(A reduced tax base applies to certain supplies, thereby reducing the effective rate of VAT.)	
VAT number format	120 (Version 2)
Tax identification	Fiscal number (format is numeric)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Paraguay by a taxable person
- The importation of goods from outside Paraguay, regardless of the status of the importer

## C. Who is liable

A VAT taxpayer is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in Paraguay.



The definition of a VAT taxpayer applies to a permanent establishment of a foreign business in Paraguay.

**Group registration.** VAT grouping is not allowed under the Paraguayan VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Paraguay. A nonestablished business is not required to become a taxpayer by obtaining a fiscal number in Paraguay.

**Late-registration penalties.** Penalties and interest are assessed for late registration for VAT if the taxable person owes VAT.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F).

In Paraguay, the standard rate of VAT is 10%. Law 2421/04 provides for a reduced tax rate of 5% for certain products and services. The 5% rate applies to basic family products, pharmaceutical goods, real estate, leasing and interest on loans or debts. In addition, a reduced tax base applies to certain supplies, thereby reducing the effective rate of VAT.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that have a reduced tax base for VAT (these lists are not exhaustive).

### Examples of exempt supplies

Unprocessed agriculture and livestock products  
 Foreign currency  
 Oil by-product fuels  
 Interest on public securities  
 Interest on bank deposits  
 Books  
 Certificates and shares\*

\* The share transfer is exempt if the seller communicates with the tax authorities regarding the transaction.

### Examples of goods and services with a reduced tax base

International freight services  
 Certain imports of goods under specified tax treatment (Decree 6.406/05)  
 Financial intermediary services  
 Real estate

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when they are transferred and, for services, when they are performed. The invoice for the transaction must be issued during the tax period in which the tax point occurs and must indicate the due date for VAT.

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

## **F. Recovery of VAT by taxable persons**

In certain circumstances, a taxable person may recover input tax (credit VAT), which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax (debit VAT), which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in or from Paraguay and VAT paid on imports of goods.

A valid tax invoice or customs document must generally support an input tax credit.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or that are used for nonbusiness purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### **Examples of items for which input tax is nondeductible**

Business gifts

Business use of home telephone

Private use of business assets

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

Purchase, lease and hire of cars, vans and trucks, as well as fuel and maintenance charges

Parking

Taxis

Travel expenses

Conferences and seminars

Mobile telephones

Advertising and sponsorship

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

**Overpayments of VAT.** If a VAT taxpayer has paid too much VAT or has paid VAT in error, it may correct the return form and use the overpayment to offset output VAT in the following tax period.

## **G. Recovery of VAT by nonestablished businesses**

Paraguay does not refund VAT incurred by foreign businesses unless the foreign businesses have a permanent establishment and are registered for VAT in Paraguay.

## H. Invoicing

**VAT invoices and credit notes.** A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support an input tax credit.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain a brief explanation stating the reason for the adjustment, and it must be cross-referenced to the original VAT invoice number.

**Proof of exports.** VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by an Exportation File and customs documents proving that the goods have left Paraguay.

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, all amounts must be converted to Paraguayan guarani, using the exchange rate published by the tax authority for recording purposes (local books).

## I. VAT returns and payment

**VAT returns.** VAT returns are submitted monthly. The due date for VAT returns and payment depends on the last number of the VAT taxpayer's tax identification number.

Return liabilities must be paid in Paraguayan currency.

**Penalties.** A default penalty is charged on late payments of VAT. The penalty begins at 4% of the tax due and increases by 2% increments per month, up to a maximum of 14% (charged for a delay of more than five months). In addition to the default penalty, monthly interest is charged on unpaid tax at a rate of 2.5% per month, calculated on a daily basis, when the penalties are imposed by the tax authority. If the penalties are self-assessed by the taxpayer, the monthly interest rate is 1.5%.

A taxpayer who intends to achieve an unlawful gain is deemed to commit fraud. Fraud is punished with a fine equal to one to three times the amount of the tax amount related to the fraud or the intention to defraud.

Penalties for severe cases of nonpayment of VAT, infringement of VAT regulations and fraud include criminal sanctions, such as fines and imprisonment.

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# Peru

(Country code 51)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Impuesto General a las Ventas
Date introduced	1 August 1991
European Union (EU) member state	No
Administered by	General Tax Administration ( <a href="http://www.sunat.gob.pe">http://www.sunat.gob.pe</a> )
VAT rates	
Standard	18%
Other	Zero-rated and exempt
VAT number format	Tax identification number (RUC)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- The sale of personal property in Peru
- The provision or use of services in Peru
- Construction contracts
- The first sale of real property by the builder
- The importation of goods from outside Peru, regardless of the status of the importer

**C. Who is liable**

A VAT taxpayer is any business entity that makes taxable supplies of goods or services in the course of doing business in Peru. In addition, individuals are liable to VAT if they perform such activities on a “habitual” basis. The Peruvian VAT law does not define “habitual” for transactions performed by individuals; the nature, amount and frequency of the operations must be considered.

No registration threshold applies. The definition of a VAT taxpayer applies to a permanent establishment of a foreign business in Peru.

**Group registration.** VAT grouping is not allowed under the Peruvian VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Peru. A nonestablished business must register for VAT if it makes supplies of goods or services in Peru.

**Late-registration penalties.** Penalties and interest are assessed for failure to fulfill formal obligations, such as late registration and late payment of VAT.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and the provision or use of services that are liable to VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F).

In Peru, the VAT rates are the standard rate of 18% and the zero rate (0%). The standard rate applies to all the taxable transactions, unless a specific measure provides for the zero rate or an exemption.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

Fruits and vegetables  
Educational services  
Public transportation

### Examples of goods and services taxable at 0%

Exports of goods  
Exports of services

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The following are the rules for determining the basic time of supply for goods and services:

- Sale of personal property within the country: when the goods are delivered or when the invoice (or payment voucher) is issued or should be issued, whichever is earlier
- Provision of services in the country: when the invoice (or payment voucher) is issued or should be issued or when the payment is made, whichever is earlier
- Use of services in the country: when the invoice (or payment voucher) is registered in the domiciled entity’s accounting records or when the payment is made, whichever is earlier
- Construction contracts: when the invoice (or payment voucher) is issued or should be issued or when the payment is totally or partially made, whichever is earlier
- First sale of real property sold by the builder: when the payment is either totally or partially made

The invoice for the transaction must be issued at the time of supply. If the purchaser makes a prepayment before a supply of goods or services takes place, an invoice must be issued and tax must be accounted for on the prepaid amount.

**Imported goods.** The time of supply for the import of goods is either when goods clear customs or when the goods leave a duty suspension regime.

## F. Recovery of VAT by taxable persons

For all of the transactions listed in Section B, VAT payable is determined on a monthly basis by deducting from the gross tax (output VAT) the corresponding VAT credit (input VAT). As a result of this calculation, an excess credit may arise instead of a financial cost for the tax period.

VAT paid on imports of goods or the use of services in the country must be paid directly to the tax authorities. For such supplies, VAT payable equals the gross tax and no deduction for VAT credit is allowed. After the VAT is paid, it may be used as VAT credit. As a result, a financial cost may be incurred for the time period beginning with the date of payment and ending on the date on which the VAT credit is used to offset the gross tax on the transactions listed in Section B.

The gross tax corresponding to each taxable operation is determined by applying the VAT rate of 18% to the tax base (for example, the price of goods and services or the value of construction contracts). The VAT credit consists of the VAT separately itemized in the payment voucher (or corresponding document) relating to any of the activities listed in Section B.

The following are requirements for the use of the VAT credit:

- The acquisition cost is allowed as an expense or cost for income tax purposes, and the acquisition is intended for operations in which the obligation to pay the VAT will arise or for services rendered abroad that will not be liable to tax.
- The tax must be stated separately in the payment voucher, and the payment voucher must be completed according to applicable law and registered in the Purchase Book appropriately.

For nonresident purchasers of goods or services, the VAT charged may not be used as a credit. However, under the Peruvian VAT Law, reimbursement of tax paid on services is allowed if the purchaser is a nonresident tourist or a nonresident individual. Services for which VAT can be reimbursed are listed on Section C of Appendix V of the VAT Law. They include, among others, public transport, food and beverage and tourist guiding. The nonresident or tourist must request the reimbursement when leaving the country.

Exporters are reimbursed for any VAT paid on the acquisition of goods and services. Exporters can apply such reimbursement as a credit to offset VAT or income tax liabilities. Any balance may be refunded by the Tax Administration.

**Early recovery VAT system.** The early recovery VAT system allows an early recovery of the VAT credit with respect to acquisitions of goods and services, construction contracts, importations and other transactions without having to wait to recover such amount from a client when the corresponding invoice for sales of goods, services or construction contracts, including VAT, is issued to the client.

This regime provides relief of the financial costs (cost of money) with respect to projects if the projects have a significant preoperative stage and if advance invoices transferring the VAT burden cannot be issued periodically to the client.

The law provides for a general and enhanced early recovery system for enterprises performing productive activities.

Under the general system, which applies to all productive companies in a preoperative stage, the VAT paid on the acquisition of capital goods is reimbursed through negotiable credit notes.

The enhanced system is restricted to companies that satisfy the following conditions:

- They enter into investment contracts with the Peruvian government.
- They make a minimum investment commitment of US\$5 million to projects with a preoperative stage of at least two years.

Under the enhanced system, VAT paid on construction contracts and on the acquisition of new capital goods and intermediate goods and services can be recovered on a monthly basis through negotiable credit notes.

The use of one system does not preclude using the other for different items.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). If expenditure relates to both business and nonbusiness activities, only the portion related to the business may be recovered. In addition, input tax may not be recovered for some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

#### **Examples of items for which input tax is nondeductible**

Employee meals (unless part of the employee's conditions of employment)

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

Advertising and sponsorship

Business gifts, if the value does not exceed 0.5% of the taxpayer's annual gross revenues, with a maximum limit of 40 tax units (approximately US\$51,400)

Business entertainment expenses, if the value does not exceed 0.5% of the taxpayer's annual gross revenues, with a maximum limit of 40 tax units (approximately US\$51,400)

Mobile phones

Parking

Fuel

Taxis

Travel expenses

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. VAT paid on the acquisition of capital goods may be used as a tax credit (input tax). A tax credit arising from the acquisition of capital goods may be offset with debit VAT (output tax) in the month in which capital goods are acquired.

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

## G. Recovery of VAT by nonestablished businesses

Peru does not generally refund VAT incurred by foreign businesses unless they have a permanent establishment or business established in Peru. Foreign businesses established in Peru recover VAT in the same manner as all other VAT-registered businesses.

## H. Invoicing

**VAT invoices and credit notes.** A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a claim for input tax credit.

A VAT credit note may be used to reduce the VAT charged on a supply of goods and services in certain circumstances (for instance, for rebates, trade discounts, bonuses, returned goods or errant charges). A credit note must refer to the VAT invoice for the original transaction and contain the same basic information.

**Exports.** Peruvian VAT is levied at a rate of 0% on the exportation of goods and services.

For a service to qualify as an export, it must be included in Article 33 or Appendix V of the Peruvian VAT Law. Appendix V can be modified by a Supreme Decree countersigned by the Ministries of Economy and Foreign Trade. In addition, on the request of a party, new services can be included in Appendix V. For exports of goods, customs documents must provide evidence that the goods have left the country. Exporters may recover VAT paid on the acquisition of goods and services. Exporters may apply to be reimbursed for VAT paid through credit notes. Credit notes may be used to offset either output VAT or income tax liabilities.

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, the value must be converted to Peruvian nuevo sol, which is the Peruvian currency, using the sales exchange rate in force on the date of the transaction.

## I. VAT returns and payment

**VAT returns.** VAT returns must be submitted monthly. Taxpayers must fulfill their tax obligations between the 7th business day and the 16th business day of the month following the date on which the tax obligation arises. The exact date for payment depends on the Tax Terms Schedule, which is approved annually by the Peruvian tax authorities. The Tax Terms Schedule indicates the due date for taxpayers based on their tax identification number (RUC).

Return liabilities must be paid in Peruvian nuevo sol.

**Penalties.** The penalty for failure to include taxable transactions in the VAT return is 50% of the omitted tax if an amount of VAT is payable. Interest is charged at a monthly rate of 1.2% on late payments or underpayments of VAT.

Many other penalties apply to failure to fulfill obligations arising under the VAT law.



# Philippines

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 1988 (under Executive Order No. 273)
European Union (EU) member state	No
Administered by	Department of Finance's Bureau of Internal Revenue ( <a href="http://www.dof.gov.ph">http://www.dof.gov.ph</a> ) or ( <a href="http://www.bir.gov.ph">http://www.bir.gov.ph</a> )
VAT rates	
Standard	12%
Other	Zero rate and exemption
VAT number format	
VAT-registered person	Nine-digit tax identification number (TIN)
Branch office	Head office's nine-digit TIN, plus a three-digit branch code
VAT return periods	Monthly VAT declarations and quarterly VAT returns
Thresholds	
Registration	
As a VAT taxpayer	
General	Gross sales or receipts in excess of P 1,919,500 in a 12-month period
Radio or television broadcasting franchisees	Gross annual receipts for the preceding year in excess of P 10 million
As a non-VAT taxpayer	
Individuals	Engaged in business with gross sales or receipts in a 12-month period of P 100,000 or less

Nonstock and nonprofit organizations	Engaged in trade or business with gross sales or receipts in a 12-month period of P 1,919,500 or less
Radio and television broadcasters	Gross receipts of P 10 million or less
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The taxable sale, barter, exchange, use or lease of goods or property by a taxable person
- The taxable sale or exchange of services by a taxable person (see below)
- The taxable importation of goods from outside the Philippines
- Deemed sale transactions (see below)

**Sale or exchange of services.** The taxable sale or exchange of services includes the following:

- Lease or use of a copyright, patent design or model, plan, secret formula or process, goodwill, trademark, trade brand or other similar property
- Lease or use of industrial, commercial or scientific equipment
- Supply of scientific, technical, industrial or commercial knowledge or information
- Supply of assistance that is ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyment of industrial, commercial or scientific equipment or scientific, technical, industrial or commercial knowledge or information
- Supply of services by a nonresident person or his or her employee with respect to the use of property or rights belonging to the nonresident, or the installation or operation of a brand, machinery or other apparatus purchased from such nonresident
- Supply of technical advice, assistance or services rendered with respect to the technical management or administration of a scientific, industrial or commercial undertaking, venture, project or scheme
- Lease of motion picture, other films, tapes and discs
- Lease or use of or the right to use radio, television, satellite transmission and cable television time

**Deemed sale transactions.** VAT applies to deemed sale transactions such as the following:

- Transfer, use or consumption not in the course of business of goods or property originally intended for sale or use
- Distribution or transfer to shareholders or investors as a share in the profits of a VAT-registered person or to creditors in payment of debt
- Consignment of goods if an actual sale is not made within 60 days following the date such goods were consigned
- Retirement from or cessation of business, with respect to inventories of taxable goods existing as of such retirement or cessation

### C. Who is liable

A taxable person is any individual, trust, estate, partnership, corporation, joint venture, cooperative or association that carries out any of the following activities in the course of a trade or business:

- Sells, barter, exchanges or leases goods or property
- Renders services
- Imports goods

In addition, if the importer is exempt from tax, the purchaser, transferee or recipient of imported goods is liable for VAT, regardless of whether such person is a registered VAT taxpayer.

Nonresident persons that perform services in the Philippines are deemed to be making sales in the course of a trade or business even if the services are not performed on a regular basis.

In general, a taxable person with gross sales or receipts that have exceeded or that are expected to exceed P 1,500,000 over a 12-month period must register as a VAT taxpayer.

A radio or TV broadcasting franchisee must register if its gross annual receipts from the franchise exceeded P 10 million in the preceding calendar year.

**Optional VAT registration.** VAT registration is optional for the following persons:

- A VAT-exempt person with gross sales or receipts that do not exceed P 1,919,500
- A radio or television broadcasting franchisee with gross annual receipts from the franchise that did not exceed P 10 million in the preceding calendar year

A VAT-registered taxpayer with mixed transactions may opt for VAT to apply to its otherwise VAT-exempt transactions.

The following persons must register as non-VAT persons:

- A VAT-exempt person that is not registered as a VAT taxpayer
- An individual engaged in business with gross sales or receipts of P 100,000 or less in a 12-month period
- Nonstock, nonprofit organizations or associations engaged in trade or business with gross sales or receipts of P 1,919,500 or less in a 12-month period
- Cooperatives, except electric cooperatives
- Radio and television broadcasters with gross annual receipts of P 10 million or less that do not opt to be registered for VAT
- Enterprises registered with the Philippine Economic Zone Authority (PEZA) and other economic zones that enjoy a preferential tax rate of 5% instead of paying all taxes
- Enterprises registered with the Subic Bay Metropolitan Authority (SBMA) or with other free port zones that enjoy a preferential tax rate of 5% instead of paying all taxes

**Group registration.** Group VAT registration is not available in the Philippines.

**Nonestablished businesses.** A foreign nonestablished business (or foreign nonresident not engaged in trade or business in the Philippines) is a foreign business that does not have a branch, headquarters or permanent establishment in the Philippines. A foreign nonestablished business is subject to VAT for services rendered in the Philippines, but it is not required to register.

**Tax representatives.** A foreign nonestablished business is not required to appoint a VAT representative in the Philippines. Any resident who deals with a nonestablished business and who has control over payment for the supply must act as the VAT withholding agent.

**Reverse-charge services.** Under the reverse-charge provision, a taxable person that receives a supply of goods or services must withhold the VAT due from the supplier and pay the VAT. The reverse charge applies in the circumstances described below.

Before paying for each taxable purchase of goods or services, the government must deduct and withhold a final VAT of 5% representing the net VAT payable by the seller. The remaining 7% is the standard input VAT (see Section F) for sales of goods or services to the government, instead of the actual input VAT directly attributable or apportioned to these sales. If the actual input VAT exceeds 7% of the gross payment, the excess may form part of the seller's expense or cost. If the actual input VAT is less than 7% of the gross payment, the difference must be treated as an expense or cost.

A resident must withhold 12% VAT before paying to a nonresident or foreign nonestablished business the consideration for a nonresident's lease of properties or for property rights or services rendered in the Philippines. A VAT-registered withholding agent may claim the VAT withheld by it as input tax on its own VAT return, subject to the rule on allocation of input tax among taxable, zero-rated and exempt sales (see Section F). If the withholding agent is a non-VAT taxpayer, the VAT paid forms part of the cost of the purchased services and may be treated either as an asset or as an expense, in accordance with general accounting principles.

**Deregistration.** A VAT-registered person may cancel its registration for VAT in any of the following circumstances:

- The taxable person's written application to the Commissioner of Internal Revenue satisfactorily shows that its gross sales or receipts for the following 12 months (other than those that are exempt) will not exceed P 1,919,500.
- The person has ceased to carry on its trade or business and does not expect to recommence any trade or business in the next 12 months.
- A change of ownership in a single proprietorship occurs.
- A partnership or corporation is dissolved.
- A merger or consolidation of a dissolved corporation occurs.
- The person registers before a planned business commencement, but fails to start its business.

**Late-registration penalties.** Penalties and interest are assessed for several VAT errors, including late registration for VAT.

## D. VAT rates

**VAT rates and exemptions.** Taxable transactions are liable to VAT either at the standard VAT rate of 12% or at the zero rate (0%). A taxable person that makes zero-rated transactions may use the input VAT as credit against VAT liability (see Section F), or it may file a claim for a refund or apply for a tax credit certificate (TCC). VAT-exempt transactions are not subject to output VAT

(that is, VAT on sales) and the seller is not permitted to recover input tax (that is, VAT on creditable purchases; see Section F).

**Zero-rated and VAT-exempt transactions.** The following tables provide examples of transactions undertaken by VAT-registered persons that are zero-rated (or effectively zero-rated; effectively zero-rated refers to local sales of goods, properties and services by a VAT-registered person to a person or entity that was granted indirect tax exemption under special laws or international agreements) or exempt (these lists are not exhaustive).

#### **Examples of transactions that are zero-rated**

Export sales, including the following:

- Sales of goods exported from the Philippines to a foreign country
- Sales of raw materials or packaging materials to a nonresident buyer for delivery to a resident exporter for manufacturing, processing, packing or repacking the buyer's goods in the Philippines
- Sales of raw materials or packaging materials supplied to an exporter with export sales exceeding 70% of its annual production
- Sales of gold to the Philippines Central Bank (Bangko Sentral ng Pilipinas, or BSP)

Foreign-currency denominated sales

Sales to tax-exempt persons or to entities under a special law or by international agreement

Services rendered to persons engaged in international shipping or air transport operations

Services of contractors or subcontractors in processing or manufacturing goods for exporters with export sales exceeding 70% of annual production

#### **Examples of VAT-exempt transactions**

The sale or import of the following items:

- Agricultural or marine food products in their original state
- Livestock or poultry used as, or for producing, foods for human consumption
- Breeding stock and related genetic materials
- Fertilizers, seeds, fingerlings, fish, prawn, livestock or poultry feeds and ingredients used for manufacturing finished feeds (except specialty feeds for race horses, fighting cocks, zoo or pet animals)

Import of the following items:

- Personal or household effects of residents returning from abroad or nonresident citizens coming to resettle in the Philippines if the items qualify for exemption from customs duties
- Professional instruments or implements, clothing, domestic animals, and personal household effects (except vehicles, vessels, aircraft, machinery, and other goods for use in the manufacturing and merchandising of any kind in commercial quantities), belonging to persons settling in the Philippines for their own use (that is, not for sale or barter or exchange), accompanying such persons or arriving within 90 days before or after their arrival
- Lifesaving equipment, safety and rescue equipment and communication and navigational safety equipment, steel plates and other metal plates used for shipping transport operations

- Capital equipment, machinery, spare parts, lifesaving and navigational equipment, steel plates and other metal plates used for construction and repair of any merchant marine vessel operated or to be operated in the domestic trade

Services rendered by agricultural contract growers and milling for others of palay (unhusked rice), corn and sugar cane

Domestic common carriers by land for passenger transport

Garage keepers

International air or shipping carriers

Radio or television broadcast franchisees with annual gross receipts of P 10 million or less

Gas and water utilities' franchisees

Persons, companies and corporations (not cooperatives or associations) engaged in providing life insurance in the Philippines

Fire, marine or other insurance agents of foreign insurance companies

Proprietors or lessees or operators of cockpits, clubs, boxing, professional basketball, jai-alai and race tracks

Individual employees

Providers for overseas dispatches, messages or conversations from the Philippines

Sales or exchanges of shares listed and traded at the local exchange or by initial public offering

Medical, dental, hospital and veterinary services, except those rendered by professionals

Educational services of government or accredited private educational institutions

Transactions exempted under international agreements signed by the Philippines or under special laws

Sales by agricultural cooperatives to members, sales of their produce to nonmembers and the import of direct farm inputs, equipment or spare parts for producing or processing farm produce

Lending by credit or multipurpose cooperatives

Sales by nonagricultural or nonelectric or noncredit cooperatives if a member's capital contribution cap is P 15,000

Sales of the following real properties:

- Real properties not primarily held for sale, lease or use in the ordinary course of trade or business
- Low-cost housing, up to P 750,000
- Socialized housing, up to P 225,000
- Residential lots up to P 1,500,000
- Houses, lots and other residential dwellings, up to P 2,500,000

The lease of residential units for rent not exceeding: P 10,000 a month or P 1,500,000 a year

The sale, import, printing or publication of books and newspapers or magazines appearing at regular intervals that have fixed sale prices and that are not devoted principally to publication of paid advertisements

Services of banks, nonbank financial intermediaries performing quasi-banking functions, and other nonbank financial intermediaries, such as money changers and pawnshops

Sale or lease of goods or properties or services up to P 1,500,000 annually

Sale of goods or services to “senior citizens,” as defined under Republic Act (RA) No. 9994 or the Expanded Senior Citizens Act of 2010

### **E. Time of supply**

**General rules.** The time of supply or tax point is the time when the VAT becomes due. The following are the general rules for the time of supply:

- For importations: before the release of the goods (whether or not for business) from customs custody
- For the sale or deemed sale, barter or exchange of taxable goods or properties: at the time of the transaction, regardless of when actual payment is made
- For installment sales of real property: when each actual payment is made or at the constructive receipt date for each installment payment
- For the use or lease of property: when each actual payment is made or at the constructive receipt date for each installment payment
- For supplies of services: when each actual payment is made or at the constructive receipt date for each installment payment

**Deposits and prepayments.** In general, receipt of a deposit or prepayment creates a tax point if the amount is paid as part of the total payment for a particular supply.

If a prepayment constitutes a prepaid lease rental, it is taxable for the lessor in the month in which the payment is received. However, a security deposit is not subject to VAT until it is applied to the rental.

**Continuous supplies of services.** A tax point is created each time a payment is made.

**Goods sent on approval.** Goods sent on approval are not subject to VAT until they are actually sold.

If an actual sale of consigned goods is not made within 60 days after the date on which the goods were consigned, a sale is deemed to take place, unless the consigned goods are returned by the consignee within the 60-day period.

**Reverse-charge services.** The tax point for reverse-charge services is when the consideration is paid.

### **F. Recovery of VAT by taxable persons**

A VAT-registered person may recover input tax, which is VAT charged on the person’s import of goods or local purchases of goods or services (including property leases) from another VAT-registered person, in the course of the person’s trade or business. A VAT-registered person generally recovers input tax by deducting it from output tax, which is the VAT charged on the sale or lease of taxable goods or properties or services. If at the end of the tax quarter, a VAT-registered person’s output VAT exceeds input VAT, the person must pay the excess. If input VAT exceeds output VAT, the excess is carried over to the next quarter or quarters.

Special rules apply to input tax related to capital goods, mixed, partially exempt and zero-rated transactions (see below).

**Deductible input tax (creditable expenditure).** Input tax related to certain transactions may be creditable against output tax if the tax paid is evidenced by a VAT invoice or official receipt issued by a VAT-registered person. The following table lists such transactions.

**Transactions for which input tax  
may be credited against output tax**

Goods purchased or imported for any of the following purposes:

- Sale of the goods themselves
- Conversion into a finished product for sale, or goods intended to form part of a finished product for sale, including packaging materials
- Use of supplies in the course of business
- Use of raw materials in a supply of services
- Use in trade or business for which deduction for depreciation or amortization is allowed

The purchase of real property on which VAT has been paid

The purchase of services on which VAT has been paid

Transactions deemed to be sales

Transitional input tax of 2% of value of beginning inventory or of the actual VAT paid, whichever is higher

Presumptive input tax of 4% of the gross value of purchases of primary agricultural products used as inputs in the production of sardines, mackerel, milk, refined sugar, cooking oil and packed noodle-based instant meals

Transitional input tax credits allowed under the law and regulations

For purposes of the above table, transitional input tax is a form of input tax allowed on transition from non-VAT-registered status to VAT-registered status. It may be credited against output tax when the VAT registration takes effect. Presumptive input tax is a form of fixed input tax allowed to persons or firms engaged in the processing of sardines, mackerel, and milk, and in manufacturing refined sugar, cooking oil and packed noodle-based instant meals. In general, it may be credited against output tax on the consummation of purchases of primary agricultural products (used as inputs to production).

**Nondeductible input tax.** Input tax may not be recovered on the purchase or importation of goods and services that are not used for business purposes.

**Capital goods.** A VAT-registered person's purchases or imports of capital or depreciable goods may be claimed as credit against output VAT, in accordance with the rules described below.

If the aggregate acquisition cost exceeds P 1 million in a calendar month, regardless of the unit cost of the capital goods, and if the capital goods have an estimated useful life of five years or more, a claim for input VAT credit begins in the month in which the capital goods are acquired and is spread evenly over 60 months. The credit is spread evenly over the actual number of months of the useful life of the asset if its estimated useful life is less than five years.

If the aggregate acquisition cost does not exceed P 1 million in a calendar month, the total input VAT is allowable as a credit against output VAT in the month of acquisition.



**Mixed transactions and partial exemptions.** Input VAT that is directly attributed to transactions subject to VAT may be recognized for tax credit. However, input tax that is directly attributable to VAT taxable sales of goods and services to the government is not available for credit against output tax related to supplies made to nongovernment entities.

Input tax that is not directly attributable to either VAT-taxable or VAT-exempt transactions must be prorated monthly between VAT taxable and VAT-exempt transactions. Input tax credit is permitted only for the portion of input tax that relates to transactions subject to VAT.

**Tax refunds or credits for zero-rated or effectively zero-rated transactions.** A VAT-registered person making supplies of goods, property and services that are zero-rated (or effectively zero-rated) may apply for a tax credit certificate (TCC) or a refund of input tax attributable to these sales (except for the portion of the excess input tax that has already been applied against output tax).

Under Section 112 (A) of the Tax Code, as amended, the request may be made within two years after the close of the tax quarter in which the sales are made. However, in September 2008, the Supreme Court held that the two-year period to file the request begins at the close of the tax quarter in which the purchases (and not zero-rated sales) were made (*Commissioner of Internal Revenue vs. Mirant Pagbilao Corp.*, G.R. No. 172129, dated 12 September 2008).

The Commissioner of Internal Revenue must grant the TCC or refund within 120 days after the date of submission of all documents required with respect to the claim.

## **G. Recovery of VAT by nonestablished businesses**

The Philippines does not refund VAT incurred by businesses that are neither established in the Philippines nor registered for VAT purposes.

A VAT-registered person that acts as a withholding agent for a supply made by a nonresident may recover the VAT withheld as input tax, on filing its own VAT return, subject to the normal rules on allocation of input tax (see Section F). If the resident withholding agent is a non-VAT taxpayer, the VAT forms part of the cost of purchased services and the VAT may be treated either as an asset or expense (subject to normal accounting principles).

## **H. Invoicing**

**VAT invoices and credit notes.** A VAT-registered person must issue a VAT invoice for every sale, barter or exchange of goods or property or a VAT official receipt for every lease of goods or property and for every sale, barter or exchange of services. These documents must contain the following information:

- A statement that the seller is a VAT-registered person, followed by the person's tax identification number (TIN), must be included.
- The total amount, inclusive of VAT, payable by the purchaser must be shown in the invoice or receipt.
- The amount of tax must be shown as a separate item in the invoice or receipt.

- If the sale is exempt from VAT, the term “VAT-exempt sale” must be written or printed prominently on the invoice or receipt.
- If the sale is subject to 0% VAT, the term “zero-rated sale” must be written or printed prominently on the invoice or receipt.
- If the sale involves goods, property or services, some of which are subject to VAT and some of which are VAT-zero-rated or VAT-exempt, the invoice or receipt must clearly indicate the breakdown of the sales price between taxable, exempt and zero-rated components. The calculation of VAT on each portion of the sale must be shown on the invoice or receipt. The seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.
- For sales or transfers to a VAT-registered person valued at P 1,000 or more, the name, business style (if any), address and TIN of the purchaser or client must also be indicated.

A VAT tax credit note may be used to reduce the VAT charged on supply of goods or services. Tax credit and debit notes must show the same information as a VAT invoice or receipt.

**Export documentation.** Export sales are subject to the zero rate of VAT if goods are shipped from the Philippines to a foreign country. The goods must be paid for in acceptable foreign currency (or its equivalent in goods or services), and it must be accounted for in accordance with the rules of the BSP. The sale and shipment of goods must be proven by the following documents:

- VAT invoices that contain the term “zero-rated sale” written or printed on the invoice
- Bills of lading
- Inward letters of credit
- Landing certificates
- Other relevant commercial documents

**Foreign-currency invoices.** If a VAT invoice or official receipt is issued in a foreign currency, all values that are required to be paid must be converted into Philippine pesos, using an acceptable exchange rate.

## I. VAT returns and payment

**VAT returns.** VAT payers that use a manual filing system must file monthly VAT declarations and pay the VAT to an authorized agent bank, not later than the 20th day after the end of each month. Taxpayers must also file quarterly VAT returns showing their quarterly gross sales or receipts within 25 days after the close of the tax quarter.

VAT payers that use the electronic filing and payment system are classified according to their business industry and they are given deadlines based on their classification. The due dates for filing and payment range from 21 days to 25 days after the end of the month for each monthly VAT declaration. The return for reporting VAT withholding must be filed, and the tax must be paid, on or before the 10th day of the month following the transaction.

Advance payment of VAT is required for the sale of refined sugar and flour. The advance VAT must be paid by the owner or seller to the Bureau of Internal Revenue through an authorized agent bank or revenue collection officer before any refined sugar or flour can be withdrawn from any refinery or mill. In addition, the VAT on imported goods must be paid before the release of the goods from the Bureau of Customs’ custody.

**Penalties.** Civil penalties (25% or 50%) and 20% interest are assessed on the amount due for the following offenses:

- Failure to file a return and pay the tax due based on the return as required by law and rules
- Filing a return with an Internal Revenue officer other than the officer with whom the return is required to be filed
- Failure to pay the full or part of the tax due or the deficiency tax within the prescribed period
- Willful neglect to file a return within the prescribed period
- Failure to file certain information returns
- Failure of a withholding agent to collect and remit tax or refund excess withholding tax
- Erroneous issuance of a VAT invoice or receipt by a person not registered for VAT

In addition to other administrative and penal sanctions, the Commissioner of the BIR may suspend or close a business establishment for at least five days for any of the following violations:

- Failure to issue receipts and invoices
- Failure to file a VAT return
- Understatement of taxable sales or receipts by 30% or more of the correct taxable sales or receipts for the tax quarter
- Failure of a person to register for VAT as required by law

Effective from 9 December 2011, on conviction of a refusal or failure to indicate separately the output tax on the sale of goods and services on a sales invoice or official receipt, each such act or omission is punished by a fine of not less than P 1,000 but not more than P 50,000 and imprisonment of not less than two years but not more than four years.

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## Poland

(Country code 48)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Podatek od towarow i uslug
Date introduced	5 July 1993
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	Ministry of Finance ( <a href="http://www.mofnet.gov.pl">http://www.mofnet.gov.pl</a> )

VAT rates	
Standard	23%
Reduced	5%/8%
Other	Zero-rated and exempt
VAT number format	123-45-67-890 PL 1234567890
VAT return periods	Monthly or quarterly
Thresholds	
Registration	PLN 150,000
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and rendering of services in Poland for consideration
- Receipt of reverse-charge services by a taxable person in Poland
- Export and import of goods
- Intra-Community acquisition of goods for consideration in Poland
- Intra-Community supply of goods

The following activities are outside the scope of VAT:

- Transactions that cannot be subject to legal agreements (illegal transactions)
- Sales of businesses (transfers of going concerns)
- Employment contracts

## C. Who is liable

A taxable person is a business entity or individual that carries on business activities, regardless of the purpose or result of the business activities. Business activities include all manufacturing, trading and service-providing activities. An activity carried out once is considered a business activity if the circumstances indicate that the taxpayer intends to conduct the activity on a regular basis. Business activities also include continuous use of goods and intangible rights with the purpose of obtaining income.

The VAT registration threshold is PLN 150,000. The limit may apply in one of the following two ways:

- Retrospectively: the value of supplies of goods or services exceeded PLN 150,000 in the preceding tax year.
- Prospectively: at the start of business, the value of supplies of goods or services is expected to exceed PLN 150,000. If the business begins after the start of the calendar year, the registration limit applies proportionately to the remainder of the year.

If the value of supplies is not expected to exceed the registration threshold, a new business is exempt from VAT. However, it may waive the exemption. The waiver in writing must be submitted to the appropriate VAT office. If the value of sales exceeds the registration threshold, the exemption is automatically no longer valid and the amount of turnover in excess of the threshold is subject to VAT.

The registration threshold is not applied to the importation of goods and services, to intra-Community acquisition of goods and

the supply of goods on which the purchaser is liable to account for VAT. In addition, businesses in the following categories must register for VAT at the commencement of activity, regardless of the amount of turnover:

- Businesses that supply products made from precious metals
- Businesses that supply certain excise products
- Businesses that supply new means of transport
- Businesses that supply building land
- Businesses that provide legal, consulting and professional services
- Businesses that supply services connected with jewelry

The PLN 150,000 registration threshold does not apply to foreign businesses.

**Group registration.** VAT group registration is not permitted under Polish VAT law. Legal entities that are closely connected must register for VAT individually.

**Foreign businesses and tax representatives.** A foreign business (that is, an entity that is not established in Poland and that does not have a place of business there) must register for VAT in Poland if it makes taxable supplies of goods or services in Poland.

However, in general, a foreign business is not required to register for VAT in Poland if it supplies exclusively the following services:

- Services and goods for which the Polish purchaser is required to account for and pay tax under the reverse-charge mechanism (see Section E).
- Certain services that are subject to a zero rate (for example, services supplied at Polish seaports with respect to international transport, services of air traffic control rendered for foreign providers of air transportation and transport services related to the import of goods if the cost of transport is included in the tax base of goods; see Section D).

A non-EU business must appoint a Polish resident tax representative before registering for VAT in Poland. The tax representative is jointly and severally responsible for the tax arrears of the foreign business represented by it.

An EU business is not required to appoint a tax representative to register for VAT in Poland, but it may appoint a tax representative if it chooses to do so.

**Late-registration penalties.** No specific penalty applies to late VAT registration in Poland. However, penalties are assessed if, as a result of late registration, a taxable person pays VAT late or submits VAT returns late. Penalties may include fines and criminal penalties.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt” refers to supplies of goods and services that are not liable to tax and that do not qualify for input tax deduction (see Section F).

In Poland, the following are the VAT rates:

- Standard rate: 23%
- Reduced rates: 5% and 8%
- Zero rate (0%)

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

In 2011, a mechanism for an automatic increase in the VAT rate was introduced. This mechanism is triggered when public debt exceeds 55% of gross domestic product (GDP). Under this mechanism, the VAT rate is increased by one percentage point each of the following two years. This would result in an increase in the standard rate to 25%. After this period, the rates will return gradually to the level of 2010.

The following tables list examples of exempt supplies of goods and services, examples of goods and services taxable at 0% and supplies of goods and services that are taxed at reduced rates of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Financial services (with exceptions)

Supply of real estate (with option to tax)

Healthcare services

Social welfare services

Public postal services

Education

Lease of residential property

Cultural and sporting events (with exceptions)

Services connected with science

Dental engineering

Betting, gaming and lotteries

#### **Examples of goods and services taxable at 0%**

Exports

Intra-Community supplies of goods

Supplies of certain sailing vessels

International transport and related services

Supplies of computer equipment to educational institutions

Supply of gas through the gas distribution system, or of electricity to nonestablished businesses

#### **Examples of goods and services taxed at 5%**

Certain unprocessed basic foodstuffs

Certain agricultural and forestry products

Books and certain magazines

#### **Examples of goods and services taxed at 8%**

Musical instruments

Certain foodstuffs

Handicraft products

Books, newspapers and magazines

Maps

Hotel services

Certain entertainment services

Passenger transport

Travel services

Medical products

Supply of water

Certain services related to agriculture

Supply, construction, repairs and reconstructions of buildings classified as “social housing”

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are either released or delivered to the purchaser. The basic time of supply for services is when the services are performed. If a tax invoice must be issued for a taxable supply, the actual point is delayed to the date on which the VAT invoice is issued, but no later than seven days following the delivery of goods or the performance of the services.

Special time of supply rules apply to several situations.

**Prepayments.** The receipt of prepayments is considered the tax point. The tax point is created only to the extent of the payment.

**Exports.** The tax point for exports of goods is created according to the general rules.

**Imports.** The tax point for imported goods arises when a customs debt is incurred. However, for goods imported under certain customs regimes, the tax point arises when the goods enter the customs regime. The following are the relevant customs regime:

- Inward processing
- Temporary customs clearance
- Processing under customs supervision

**Intra-Community acquisitions and supplies of goods.** The tax point for the intra-Community acquisition of goods is the 15th day of the month following the month in which the supply took place. If an invoice is issued before this date, the VAT is due at the time the invoice is issued. The same rule applies to invoices confirming prepayments or advance payments.

The same tax point rules apply to intra-Community supplies of goods.

**Reverse-charge services.** Imported services are subject to a reverse charge, which is a form of self-assessment of VAT. If the reverse charge applies, the recipient of the service accounts for output tax (effectively on behalf of the supplier).

The reverse-charge mechanism is required if the service provider is not established in Poland.

The reverse-charge VAT is deductible as input tax by the recipient of the service in accordance with the general rules (see Section F), in the same month (quarter) when the tax point arises or in one of the two following months (quarters).

### **F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is charged on goods and services supplied to it for business purposes, if it relates to the person’s taxable supplies. A taxable person generally recovers input tax by deducting it from output tax, which is charged on supplies made.

Input tax includes VAT paid on the purchase of goods and services, VAT paid on imports of goods and on intra-Community acquisitions, VAT self-assessed for reverse-charge services received from outside Poland and VAT self-assessed for goods on which the purchaser is liable to account for VAT.

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

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by the entrepreneur). In addition, input tax is not recoverable for some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if related to taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Restaurant meals  
 Personal expenses  
 Fuel used for passenger cars with low loading capacity  
 Hotel accommodation

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

Advertising  
 Purchase, lease or hire of passenger cars as well as vans or trucks with high loading capacity  
 Fuel (gasoline, diesel oil, propane and butane) for the vehicles listed above  
 For passenger cars with low loading capacity, 60% of input VAT is deductible (up to a maximum of PLN 6,000)  
 Maintenance for all types of vehicles, including passenger cars  
 Travel  
 Conferences  
 Business gifts  
 Business use of home telephone and mobile phones

**Partial exemption.** Input tax is not recoverable if it is directly related to making exempt supplies. If a Polish taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as “partial exemption.”

Input tax directly relating to taxable supplies is recoverable in full, while input tax directly related to exempt supplies is not recoverable. Input tax that is not directly attributable to taxable supplies or to VAT-exempt supplies must be apportioned to each category.

The general pro rata method is based on the ratio of qualifying turnover compared with total turnover during the calendar year. The initial deduction (that is, the deduction made during a tax year) is done based on the pro rata percentage for the preceding year.

The recovery percentage is rounded up to the nearest whole number. The calculation is adjusted using the actual figures for the year in the first period of the next calendar year.



**Capital goods.** Capital goods are items of capital expenditure that are used in a business for longer than a year. Input tax is deducted in the tax period in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption status in the VAT year of acquisition. The amount of input tax recovered on the capital item must be adjusted over time depending on the use of the goods. In Poland, the capital goods adjustment applies to the following assets (for the number of years indicated):

- Real estate: adjusted for a period of 10 years
- Capital goods and intangible assets: adjusted for a period of five years

The adjustment does not apply to goods or services that are capital goods and intangible assets with a purchase value of less than PLN 15,000.

The adjustment is applied each year following the year in which the capital goods or real estate is made available to a fraction of the total input tax (1/10 for real estate and 1/5 for other capital goods). The adjustment may result in either an increase or a decrease in deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared to the year in which the capital goods were acquired.

**Refunds.** In general, if a VAT return shows an excess of input VAT over output VAT, the surplus input tax is carried forward to offset output tax in the following month. Taxable persons may request a direct refund of the surplus within the following time limits:

- 60 days after the date on which the VAT return is submitted
- 180 days from the date on which the VAT return was submitted if the taxpayer did not perform any taxable activity in the relevant period

The refund periods may be shortened to 25 and 60 days, respectively, if the taxpayer submits an appropriate application and if the invoices and other documents regarding the input VAT shown in the VAT return are paid or if the collateral is submitted.

If necessary, the tax office may extend the refund period until tax proceedings are completed.

If a repayment is delayed, the tax office must add interest for the delay.

## **G. Recovery of VAT by nonestablished businesses**

Poland refunds VAT incurred by businesses that are neither established nor registered for VAT in Poland. A nonestablished business may claim VAT to the same extent as a Polish taxable person.

For businesses established in the EU, refunds are made under the terms of the EU Directive 2008/09. For businesses established outside the EU, refunds are made under the terms of the EU 13th Directive. For the general VAT refund rules applicable to the EU 2008/09 and 13th Directive refund schemes, see the chapter on the EU, page 208.

To be eligible to claim a VAT refund in Poland, a nonestablished business must satisfy all the following conditions:

- It must be registered for VAT in the country where it is established.
- It must not be registered for VAT in Poland.
- It must not make taxable supplies in Poland (with certain exceptions, including supplies of services taxed under the reverse-charge mechanism).
- It must be established in a country that refunds VAT to Polish businesses (the reciprocity principle).

**Refund application.** The deadline for submitting refund applications is 30 September following the claim year. This deadline is strictly enforced. The forms must be completed in Polish. The claim period is a minimum of a calendar quarter and a maximum of one calendar year. The minimum claim amounts are €400 for accounting periods shorter than a year and €50 for an annual claim.

Refunds are made in Polish zloty (PLN) into a bank account maintained by the claimant either in Poland or in the state where the claimant is resident or has a place of business. If a transfer is made abroad, the tax office does not cover the remittance costs.

Refund claims by non-EU businesses must be filed with the following tax office in Warsaw:

II Urząd Skarbowy Warszawa Śródmieście  
Jagiellońska 15  
Warsaw  
Poland

EU businesses must file the application form through their local tax office in their country of establishment.

To claim refunds, the following documents are required:

- Official application form (this form is attached to the Ministry of Finance Decree)
- Original VAT invoices and customs documents
- Certificate of Registration as a Taxpayer issued by the VAT authorities in the country where the claimant is established, stating that the taxpayer is a taxable person for VAT purposes (this form is attached to the Ministry of Finance Decree)

**Repayments and interest.** Refunds are made within six to eight months after the claim filing date. The taxpayer is entitled to interest on the late refunds.

## H. Invoicing

**VAT invoices and credit notes.** A Polish taxable person must generally provide a VAT invoice for the following:

- All taxable supplies made
- Exports of goods
- Intra-Community supplies
- Supplies of goods outside the scope of Polish VAT (that is, the reverse-charge mechanism applies)
- Supplies of services outside the scope of Polish VAT (that is, the reverse-charge mechanism applies)
- Triangular transactions (see the chapter on the EU, page 208)
- Distance sales (see the chapter on the EU, page 208)

VAT invoices are not required if a business exclusively supplies VAT-exempt goods or services. VAT invoices are not required for

sales made to private individuals who do not carry on business activities, unless requested. Invoices must support claims for VAT refunds claimed by nonestablished businesses.

A credit note (called a “correcting invoice”) must be issued if any of the following circumstances arise after an invoice is issued:

- A rebate or discount is granted.
- The price is increased.
- An error is detected in the price, rate or amount of tax charged or in any other element of the invoice.

In general, a credit note must be issued to the person to whom the original VAT invoice was issued.

**Proof of export and intra-Community supplies.** Goods exported from Poland and intra-Community supplies of goods are subject to Polish VAT at the zero rate (see the chapter on the EU, page 208). To qualify for zero rating, the supplier must prove that the goods have left Poland. Suitable proof for exported goods includes the Single Administrative Document (SAD), which confirms that the goods have been removed from the EU. For an intra-Community supply, a range of commercial documentation must be used (usually transport documents, copy of the invoice and the specification).

**Foreign-currency invoices.** The VAT amount on the invoice must be shown in Polish zloty, regardless of the currency in which the amount due is expressed in the invoice. If a VAT invoice is issued in a foreign currency, the output value must be converted into Polish zloty, using the official exchange rate published by the National Bank of Poland (NBP) for the day preceding the invoice issuance date (for invoices issued correctly within the seven-day deadline). However, if an invoice was not issued on time in accordance with the Polish rules (that is, generally, within seven days after the supply), the taxpayer must apply the average rate calculated and published by the NBP on the last business day preceding the date on which the tax point arises.

## I. VAT returns and payment

**VAT returns.** VAT returns are made on a monthly or quarterly basis. Taxpayers must submit VAT returns to the tax office by the 25th day of the month following the month (or quarter) in which the tax point arises. The deadline for making the relevant payment is the same as for submitting the VAT return. The taxpayers who opt to file VAT returns quarterly must make advance payments no later than the 25th day of the month following the first and second month of the quarter. The advance payment is equal to 1/3 of the tax liability for the preceding quarter. If the VAT liability for the preceding quarter equals 0 (for example, excess of input VAT over output VAT), the taxpayer does not have to make any advance payments.

VAT liabilities must be paid by bank transfer, and must be paid in Polish zloty.

**Small taxpayers.** “Small taxpayers” include VAT-taxable persons whose total value of supplies in the preceding VAT year did not exceed the Polish zloty equivalent of €1,200,000. The €1,200,000 threshold also applies to commission sales. The threshold for brokerage houses is €45,000 of income from brokerage and other

forms of remuneration. A business that meets the small taxpayer conditions may opt for a special VAT scheme, but this treatment is not compulsory.

Small taxpayers may choose to account for VAT using the “specific tax point.” The “specific tax point” for a supply is the receipt of payment no later than 90 days following the delivery of goods or the performance of services. The appropriate VAT office must be notified of the decision to choose this tax point.

Small taxpayers that account for VAT on the basis of the specific tax point must submit VAT returns quarterly. Other small taxpayers may also opt for quarterly return periods. The due date for the quarterly VAT return is the 25th day of the month following the end of the quarter. Payment in full is required on the same date.

**Penalties.** Several penalties are assessed in Poland for errors in VAT accounting, for late submission of VAT returns or for late payment of VAT. The following are the penalties:

- Late submission of VAT returns: for a VAT return that is submitted late, the individual responsible for the delay may be fined if the tax court determines that he or she is at fault. The fine is imposed on the basis of the Fiscal Penal Code, which determines the penal liability of natural persons for fiscal crimes.
- Late payment of VAT: the interest rate applied to delayed payments of VAT is 200% of the National Bank of Poland “Lombard rate.” In November 2011, the interest rate for delayed payments was 14% per year.

## J. EU declarations

**INTRASTAT.** A Polish taxpayer that trades in goods with businesses elsewhere in the EU must submit INTRASTAT forms if its turnover exceeds the following amounts:

- Intra-Community acquisitions: PLN 1 million
- Intra-Community supplies: PLN 1 million

If the taxpayer’s turnover does not exceed certain thresholds, it is not required to complete all items of the INTRASTAT report form (numbers 12, 15 and 20 may be excluded). The following are the thresholds:

- Intra-Community acquisitions: PLN 33 million
- For intra-Community supplies: PLN 60 million

INTRASTAT returns are filed with the Polish customs authorities on a monthly basis. They must be filed by the 10th of the month following the month in which the transactions occurred.

INTRASTAT returns must be submitted either in paper or in electronic form. All amounts must be provided in zlotys.

A penalty may be imposed for late submissions or for missing or inaccurate declarations.

**EU Sales Lists.** Persons who are registered as EU VAT payers must file EU Sales Lists (ESLs) if they make intra-Community supplies and acquisitions or if they make supplies of services and the place of supply is considered to be the place of establishment of the customers.

No turnover thresholds apply to ESLs under the Polish VAT law.

ESLs must be filed monthly (or in some cases quarterly) with the tax office. ESLs submitted electronically must be filed by the 25th day of the month following the end of the month or quarter. If submitted by paper, ESLs must be filed by the 15th day of the month following the end of the month or quarter.

ESLs may be filed only in paper form. All amounts must be provided in zlotys.

In Poland, ESLs must include the following information:

- The name of the entity submitting the lists and the entity's Polish VAT registration number
- The EU VAT registration numbers of suppliers and customers, together with the appropriate country codes
- The total of intra-Community acquisitions and intra-Community supplies made
- Information about triangular transactions subject to the simplification rule (see the chapter on the EU, page 208)
- The total of services supplied that have a place of supply outside Poland

An ESL is not required for any period in which the taxable person does not make any intra-Community supplies.

Penalties may be imposed for late and missing ESLs.

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## Portugal

(Country code 351)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Imposto sobre o valor acrescentado (IVA)
Date introduced	1 January 1986

European Union (EU) member state	Yes
Administered by	Ministry of Finance ( <a href="http://www.portaldasfinancas.gov.pt">http://www.portaldasfinancas.gov.pt</a> )
VAT rates	
Mainland	
Standard	23%
Intermediate	13%
Reduced	6%
Other	Exempt and exempt with credit
Autonomous regions of the Azores and Madeira	
Standard	16%
Intermediate	9%
Reduced	4%
VAT number format	PT 5 1 2 3 4 5 6 7 8
VAT return periods	
Monthly	If the turnover in the preceding VAT year exceeded €650,000
Quarterly	If the turnover in the preceding VAT year did not exceed €650,000
Annual	All taxable persons that performed any taxable operations
Thresholds	
Registration	None
Distance selling	€35,000
Intra-Community acquisitions	None
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Portugal by a taxable person
- The intra-Community acquisition of goods and services in Portugal from another EU member state made by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in Portugal
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, the territory of Portugal includes the autonomous regions of the Azores and Madeira. However, special VAT rates apply to supplies made in these islands.

## C. Who is liable

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

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

Special rules apply to foreign or “nonestablished” businesses.

**Group registration.** VAT grouping is not permitted under Portuguese VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in the territory of Portugal. A nonestablished business that makes supplies of goods or services in Portugal must register for VAT if it is liable to account for Portuguese VAT on the supplies or if it makes intra-Community supplies or acquisitions of goods.

The reverse charge applies generally to supplies made by non-established businesses to Portuguese taxable persons. For these purposes, nonestablished businesses are entities that are neither established nor registered in Portugal. Under the reverse-charge provision, the taxable person that receives the supply must account for the Portuguese VAT due. If the reverse charge applies, the nonestablished business is not required to register for Portuguese VAT. The reverse charge does not apply to supplies to private persons or to nontaxable legal persons. Consequently, nonestablished businesses must register for Portuguese VAT if they make any of the following supplies:

- Intra-Community supplies or acquisitions (see the chapter on the EU, page 208)
- Distance sales in excess of the threshold (see the chapter on the EU, page 208)
- Supplies of goods and services that are not subject to the reverse charge

**Tax representatives.** Businesses that are established in the EU are not required to appoint a tax representative to register for VAT in Portugal. However, EU businesses may opt to appoint a tax representative if they wish to do so.

Businesses that are established outside the EU must appoint a resident tax representative to register for Portuguese VAT. The tax representative is the first entity deemed responsible for the payment of the VAT debts with the business represented by it.

EU businesses that opt not to appoint a fiscal representative must register for VAT at the following tax office:

3rd Tax Office  
Rua dos Correiros, 70 1º  
1100-167 Lisbon  
Portugal

However, a nonresident entity that is registered for VAT in Portugal and that intends to cease activity in Portugal must appoint a Portuguese fiscal representative that is established or resident in Portugal. This rule is aimed at ensuring payment of any outstanding tax that may be levied after the cancellation of the activity.

**Late-registration penalties.** The following penalties are imposed for late VAT registration in Portugal:

- A fine ranging from €400 to €5,000 if the taxpayer’s actions were not intentional
- A fine ranging from €400 to €10,000 for group entities if the taxpayer’s actions were intentional

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include, among others, exports of goods outside the EU and related services, and supplies of banking, financial and insurance services made to a recipient outside the EU (see the chapter on the EU, page 208).

The following VAT rates apply in mainland Portugal:

- Standard rate: 23%
- Intermediate rate: 13%
- Reduced rate: 6%

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

In the autonomous regions of the Azores and Madeira, the following are the VAT rates:

- Standard rate: 16%
- Intermediate rate: 9%
- Reduced rate: 4%

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the reduced and intermediate rates of VAT (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Immovable property

Medical services

Finance

Insurance

Supplies of copyrights by authors (under the 2012 State Budget, effective from 1 January 2012, this exemption applies to individuals only; consequently, this exemption does not apply if the author is a corporation)

Training provided by public sector institutions

### **Examples of goods and services taxable at 6% (4% in the Azores and Madeira)**

Basic foodstuffs

Books and newspapers

Pharmaceuticals

Medical equipment

Passenger transport

Hotel accommodation

### **Examples of goods and services taxable at 13% (9% in the Azores and Madeira)**

Canned meat and fish

Fuel and colored oil marked with government-approved additives



Entries to singing performances, dance, music, theatre, cinema, bullfighting and circus

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the service is completed.

In Portugal, an invoice must be issued before the fifth business day after the basic time of supply. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due on the fifth business day after the basic tax point.

If the consideration is paid in full or in part before the invoice is issued, the actual tax point becomes the date on which payment is received (with respect to the amount paid). The VAT invoice must be issued immediately in these circumstances.

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

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the basic time of supply for the goods occurs. If the supplier issues an invoice before this date, the time of supply is when the invoice is issued.

**Intra-Community supplies.** Although no VAT is chargeable for an intra-Community supply, an invoice must be issued by the 15th day of the month following the month in which the goods are delivered to the customer.

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

### **F. Recovery of VAT by Portuguese taxable persons**

A taxable person may recover input tax, which is VAT incurred with the acquisition of goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in Portugal, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and services and reverse-charge services (see the chapter on the EU, page 208).

A valid tax invoice or customs document is usually requested by the tax authorities during their analysis of a claim for input tax.

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

The following tables provide examples of items of expenditure for which input tax is not deductible, and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Purchase, hire, lease, maintenance and fuel for private cars, vans and trucks

Business gifts (unless valued at less than €50)

Restaurant meals

Entertainment and luxury goods and services

Transport expenses and business travel, including toll costs, incurred outside the scope of the organization or participation in congresses, fairs or exhibitions

Accommodation and meals incurred outside the scope of the organization or participation in congresses, fairs or exhibitions

Drinks and tobacco

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

50% of VAT related to diesel or liquefied petroleum gas (LPG) for vans and trucks

50% of VAT related to expenses incurred with respect to organization of conferences, seminars and training courses (for example, travel, food and beverage, accommodation and lease of immovable property)

25% of VAT related to expenses incurred with respect to participation in conferences, seminars and training courses (for example, travel, food and beverage, accommodation and lease of immovable property)

**Partial exemption.** Input tax directly related to making exempt supplies is not generally recoverable. If a Portuguese taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as “partial exemption.” Exempt with credit supplies are treated as taxable supplies for these purposes.

In Portugal, the amount of input tax that a partially exempt business may recover is calculated by using one of two methods.

The first method consists of the following two stages:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible (this method is usually referred to as the “direct allocation method”). Input tax directly related to exempt supplies is not deductible.
- In the second stage, the remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned. The apportionment may be calculated based on the value of taxable supplies made compared with total turnover, or by using another acceptable method agreed on with the VAT authorities. The recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 72.1% is rounded up to 73%).

Under the second method, a taxable person may use a general pro rata calculation based on the value of taxable supplies made compared with total turnover.

Taxable persons may use both methods at the same time for different operations or for different sectors of activity. The Portuguese VAT authorities may also impose the use of one of these two methods to prevent distortions of competition.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's partial exemption recovery percentage changes by more than 5% in any year during the adjustment period or if goods are taken from a taxable sector or activity for use in an exempt sector or activity.

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

- Immovable property: adjusted for a period of 20 years
- Movable property: adjusted for a period of five years

The capital goods adjustment does not apply to the following items:

- Goods with a purchase value of less than €2,500
- Goods with a useful life of less than five years (for example, computers)

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax (1/20 for immovable property and 1/5 for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

**Refunds.** If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the credit may be claimed in certain circumstances. If a refund may not be claimed, the input tax credit may be carried forward to offset output tax in a subsequent period.

A refund may be requested if the credit balance is at least €250 and if the taxable person has been in a credit position for 12 or more consecutive months. However, if the VAT credit exceeds €3,000, a VAT refund may be claimed immediately.

A refund may also be requested before the end of the 12-month period for amounts greater than €25 if any of the following circumstances exist:

- The taxable person has ceased operations.
- The taxable person has ceased to make taxable supplies and now exclusively makes supplies that are exempt from VAT.
- The taxable person begins to use the special VAT accounting regime for retailers.

In general, a refund is claimed by submitting the VAT return form by electronic means, together with the following annexes:

- A list of clients
- A list of suppliers
- Adjustments in favor of the company

## G. Recovery of VAT by nonestablished businesses

Portugal refunds VAT incurred by businesses that are neither established in Portugal nor registered for VAT there. Non-established businesses may claim Portuguese VAT to the same extent as VAT-registered businesses.

For businesses established in the EU, refund is made under the terms of the EU Directive 2008/8/CE. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive on the condition of reciprocity. Consequently, Portuguese VAT is refunded only to non-EU claimants established in countries that refund VAT to Portuguese businesses.

For the general VAT refund rules of the EU Directive 2008/8/CE and EU 13th Directive refund schemes, see the chapter on the EU, page 208.

**Refund application.** The deadline for refund claims is the last business day in September in the year following the calendar year in which the tax was incurred.

VAT refund claims by nonestablished businesses must be submitted electronically to the tax authorities of the country where the claimant is established. Subsequently, such tax authorities send the VAT refund claim to the Portuguese tax authorities, which analyze the information.

The deadline for the approval or denial of the refund is four months, but it may be extended to six or eight months if the Portuguese tax authorities issue one or two requests for additional information or documents.

The invoices underlying the VAT incurred must be provided to the tax authorities electronically only if they are specifically requested.

The minimum amount claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is €400. For an annual claim, the minimum amount is €50.

**Repayment interest.** Claimants may request payment of interest if an EU Directive 2008/8/CE or EU 13th Directive claim is repaid more than 10 working days after the 4-, 6- or 8-month period has elapsed.

## H. Invoicing

**VAT invoices and delivery notes.** A Portuguese taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not required for retail transactions with an amount of less than €10 that is paid in cash by a private person, unless requested by the customer. However, a sales ticket must always be issued in these cases.

A VAT invoice (or equivalent document) is necessary to support a claim for input tax deduction or a refund under the EU Directive 2008/8/CE or EU 13th Directive refund schemes (see the chapter on the EU, page 208).

Two copies of the delivery note or invoice must accompany all goods in transit. The document used must contain the same

information as an invoice, excluding the value of the transaction. This document must also contain details indicating from where the goods were dispatched, the destination of the goods and the time of commencement of the dispatch.

**Credit notes.** A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must be cross-referenced to the original invoice. The mention of VAT on a credit note is optional. If VAT is mentioned, the supplier may reduce the VAT payable with respect to the supply. However, the supplier can make this reduction only if it has written confirmation from the purchaser acknowledging the VAT adjustment.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that confirms the goods have left Portugal. Acceptable proof includes the following documentation:

- For an export, stamped customs documentation and an indication on the invoice of the Portuguese VAT law article that permits exemption with credit for the supply
- For an intra-Community supply, a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU member state), plus a range of commercial documentation, such as bills of lading, transport documentation and proof of payment

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, the values and VAT amounts used must be converted to euros (€). The conversion must be done using the sales rate used by a bank established in Portugal or by the European Central Banking System on the date on which the tax is chargeable or on the first business day of that month. The invoice must indicate the exchange rate used.

The above rules apply only to invoices issued by Portuguese taxable persons. For invoices received from foreign suppliers (for example, invoices related to intra-Community acquisitions), the acquirer may indicate the exchange rate used to convert the amounts to euros on the face of the invoice.

## I. VAT returns and payment

**VAT returns.** Periodic VAT returns are submitted in Portugal for monthly or quarterly periods, depending on the taxable person's turnover in the preceding VAT year. All taxable persons must also complete an annual return.

Monthly VAT returns must be filed if the taxable person's turnover in the preceding year exceeded €650,000.

Quarterly VAT returns must be filed if the taxable person's turnover in the preceding year did not exceed €650,000.

Periodic VAT returns must be filed together with full payment of VAT. Monthly VAT returns must be submitted before the 10th day of the second month after the end of the return period. Quarterly VAT returns must be submitted before the 15th day of the second month after the end of the return period.

In general, annual returns must be submitted by 15 July following the end of the calendar year.

Return liabilities must be paid in euros.

**Penalties.** The following penalties apply to the late submission of periodic and annual VAT returns:

- A fine ranging from €200 to €2,500 if the fault is not deliberate
- A fine ranging from €200 to €5,000 if the fault is deliberate

The following penalties apply to the late payment of VAT:

- A fine ranging from 20% to 100% of the VAT due, up to a maximum of €45,000, if the fault is not deliberate
- A fine ranging from 200% to 400% of the VAT due, up to a maximum of €165,000, if the fault is deliberate

In addition, interest applies (currently at a 4% annual rate).

## J. EU declarations

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

The threshold for INTRASTAT Arrivals for 2011 is €200,000.

The threshold for INTRASTAT Dispatches for 2011 is €250,000.

The INTRASTAT return period is monthly. The submission deadline is the 10th business day following the end of the return period.

The maximum penalty for the late submission or incorrect submission of an INTRASTAT return may vary between €500 and €50,000 for a taxable person.

**EU Sales Returns.** If a Portuguese taxable person makes intra-Community supplies of goods and/or services, it must submit an EU Sales Return (ESR) by the 20th day of the month following the month in which the operation takes place. An ESR is not required for a period in which the taxable person does not make any intra-Community supplies.

ESRs may be submitted quarterly if the VAT returns are submitted quarterly. They may be submitted monthly if the VAT returns are submitted monthly or if the VAT returns are submitted quarterly but in one of the previous four quarters the amount of the intra-Community supplies of goods exceeded €50,000.

Penalties may be imposed for late, missing or inaccurate ESRs.

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## Romania

(Country code 40)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Taxa pe valoarea adaugata
Date introduced	1 July 1993
European Union (EU) member state	Yes (effective from 1 January 2007)
Administered by	Ministry of Public Finance ( <a href="http://www.mfinante.ro">http://www.mfinante.ro</a> )
VAT rates	
Standard	24%
Reduced	5%/9%
Other	Exempt without credit and exempt with credit
VAT number format	RO XXXXXX (the prefix is RO, but the number of digits may vary)
VAT return periods	Monthly or, under certain conditions, quarterly (if the Romanian tax authorities grant a special derogation and if certain conditions are met, the return may be submitted on a half-yearly or yearly basis)
Thresholds	
Registration	€35,000
Distance sales	€35,000
Recovery of VAT by nonestablished businesses	Yes (under certain conditions)

**B. Scope of the tax**

VAT applies to the following transactions:

- Supplies of goods made in Romania by a taxable person
- Supplies of services in Romania by a taxable person
- The intra-Community acquisition of goods from another EU member state (see the chapter on the EU, page 208)
- The importation of goods into Romania

**C. Who is liable**

A “taxable person” is any person who independently makes taxable supplies of goods or services in the course of a business, regardless of the purpose or results of that activity. The VAT registration threshold is turnover of €35,000 a year (this threshold applies only to taxable persons established in Romania). Established taxpayers who estimate or record a turnover of more than the Romanian currency equivalent of €35,000 must register

for VAT by the 10th day of the month following the month in which the threshold is exceeded.

In principle, the buyer of goods or services is held jointly and severally liable with the seller for payment of Romanian VAT.

**Deregistration.** Taxable persons with annual turnover of less than RON 119,000 may request deregistration. Taxpayers that apply for deregistration during 2012 are not required to repay VAT recovered with respect to the acquisition of stock and capital goods before 31 December 2011.

**Group registration.** Until 1 January 2012, VAT grouping was allowed under the Romanian VAT law exclusively for “large taxpayers.” At the time of writing, it was uncertain whether group registration will be available for all taxpayers after that date.

Under the rules currently in effect, a minimum of two taxable persons may form a fiscal group for a period of at least two years if all of the members meet the following conditions:

- They are established in Romania.
- They do not belong to another fiscal group.
- They use the same tax period.
- Their capital is held in a proportion of more than 50% by the same shareholders.

However, VAT grouping is allowed only for VAT reporting (for consolidation purposes).

**Nonestablished businesses.** A taxable person that has the seat of its economic activity in Romania is deemed to be established in Romania for VAT purposes.

A taxable person that has the seat of its economic activity outside Romania is considered to be established for VAT purposes in Romania if it has a fixed establishment in Romania, which means that it has sufficient technical and human resources to perform on a regular basis taxable supplies of goods and/or services.

A taxable person that has the seat of its economic activity outside Romania and that has a fixed establishment in Romania is not deemed to be established in Romania for the supplies of goods and services performed in Romania in which the Romanian fixed establishment is not involved.

The seat of its economic activity is deemed to be the place where the management decisions of a taxable person are taken and where the functions of its central administration are performed. To determine where a taxable person has its economic seat, certain factors should be taken into account, such as the place where the directors meet and where the company sets its general policy.

In general, a nonestablished business must register for VAT if it undertakes a range of activities, such as the following:

- Intra-Community acquisitions of goods in Romania
- Intra-Community supplies of goods in Romania
- Transfers of its own goods to Romania
- Sending goods to Romania from another EU country for processing with the finished products not returning to the EU country of dispatch
- Distance sales in excess of the annual threshold of €35,000



A taxable person that has the seat of its economic activity outside Romania but has a fixed establishment in Romania must register for VAT purposes in Romania before receiving a service for which it is liable to pay the VAT or before supplying a service from this fixed establishment to a taxable person that is liable to pay VAT in another EU member state.

A taxable person that has the seat of its economic activity in Romania but is not registered for VAT purposes in Romania must register for VAT purposes if it supplies services with a place of supply in another EU member state, for which the beneficiary is liable to pay the tax.

A taxable person that has the seat of its economic activity in Romania but is not registered for VAT purposes in Romania must register for VAT purposes if it acquires services from a supplier established in another EU member state and if such taxable person, as the beneficiary of the services, is liable to pay the tax.

VAT registration is not required if an entity that is neither established nor registered for VAT in Romania makes a local supply of goods or services and the recipient is an established taxable person, nontaxable legal person (for example, a public authority) or is a nonestablished taxable person that is registered for VAT in Romania through a VAT representative.

If an entity that is established within the EU supplies goods or services, if the place of supply is in Romania and if the entity is liable to pay VAT with respect to such transaction, the EU entity may opt to appoint a VAT representative or to register directly for VAT purposes. An entity that is established outside the EU may register in Romania only through a fiscal representative.

Effective from 1 January 2012, taxable persons not established and not registered for VAT purposes in Romania may apply for VAT registration if they carry out imports of goods into Romania, supplies of immovable property or rental of immovable property.

**Registration in the Registry of Intra-Community Operators.** Effective from 1 August 2010, all taxable persons and nontaxable legal persons that perform intra-Community operations (intra-Community acquisitions and supplies of goods and/or services falling under the general business-to-business [B2B] rule for the supply of services) must register in the Registry of Intra-Community Operators (RIO) before performing such operations. Failure to comply with this registration requirement results in an invalid VAT number for intra-Community operations, effective from 1 August 2010, even if the respective person is registered for VAT purposes in Romania.

The Romanian tax authorities may impose a fine of between RON 1,000 and RON 5,000 (approximately €250 to €1,150) if a person performs intra-Community operations before registering in the RIO.

**Reverse charge.** The reverse charge applies to the following transactions, among others:

- Intra-Community acquisitions of goods and services.
- Local supplies of goods and services made by nonestablished and unregistered entities to customers that are registered for VAT in Romania.

- Imports. Effective from 1 January 2013, the reverse charge applies to imports if the importer is registered for VAT in Romania. Currently, the reverse charge may be applied to imports exclusively by persons who have obtained a specific VAT payment postponement certificate.

**Tax representatives.** A nonestablished, non-EU entity that carries on taxable operations in Romania and that is required to register for VAT purposes must appoint a tax representative. A taxable person that is established in the EU may appoint a tax representative, but may also choose to register for VAT in its own right (direct VAT registration).

**Late-registration penalties.** Penalties of RON 1,000 to RON 5,000 (approximately €250 to €1,150) apply to late registration for VAT purposes. Separate penalties ranging from RON 1,000 to RON 5,000 are assessed for delays in submitting VAT returns. In addition, for the late payment of VAT, late payment interest (0.04% per day of delay) and late payment penalties (0%, 5% or 15%, depending on the period of delay) apply.

#### D. VAT rates

Supplies within the scope of VAT are classified as taxable and exempt. Exempt supplies and operations are further classified in the following ways:

- Exempt supplies with credit (that is, with the right to deduct input VAT; see Section F)
- Exempt supplies without credit (that is, without the right to deduct input VAT; see Section F)
- Exempt imports and intra-Community acquisitions (under certain conditions)
- Exempt without credit supplies performed by taxable persons established in Romania who have annual turnover of less than €35,000 and who have not opted for standard taxation

In Romania, the standard rate of VAT is 24%. A reduced VAT rate of 9% applies to certain supplies (see below).

Effective from 15 December 2008, a 5% reduced VAT rate applies to the supply of social housing (including related land). For this purpose, social housing includes, but is not limited to, houses that are a maximum of 120 square meters and that do not exceed RON 380,000 in value (net of VAT). The reduced 5% VAT rate applies only if both of the following conditions are satisfied:

- The house can be used as such after the sale.
- For individual houses, the surface of the land on which the house is built is less than 250 square meters.

The following tables provide examples of exempt supplies of goods and services and examples of goods and services taxed at the reduced rate of 9% (these lists are not exhaustive).

#### **Examples of supplies of goods and services that are exempt without credit**

Specific banking and financial operations  
Insurance and reinsurance  
Medical services  
Education

Specific hiring, concession leasing or letting of immovable property (unless option to tax is exercised)

Sale of “old” buildings (unless option to tax is exercised)

**Examples of supplies of goods and services  
that are exempt with credit**

Exports of goods

Transport services and services related to exports of goods

International transport of passengers and related services

Intra-Community supplies of goods (specific provisions)

**Examples of exempt imports and intra-Community acquisitions**

Re-imports of Romanian goods repaired abroad (equivalent to the exported goods)

Imports of natural gas through specific distribution systems and electricity

**Examples of goods and services taxed at 9%**

Books, newspapers, magazines and school manuals (except those intended exclusively for publicity)

Prostheses of any type and accessories (except dental prostheses)

Orthopedic products

Medicines for human and veterinary use

Hotel accommodation and similar accommodation, including the rental of land for camping

## **E. Time of supply**

The time when VAT becomes due is called the “chargeability to tax” or “tax point.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the services are provided. Several exceptions apply to these rules.

For intra-Community acquisitions or exempt intra-Community supplies of goods, the tax point arises on the 15th day of the month following the month in which the chargeable event took place or on the date on which an invoice was issued, whichever is earlier.

**Continuous supplies of services.** The time of supply for continuous supplies of services, such as telephone services, water and electricity, is on the last day of the period specified in the contract for payment, or on the date of issuance of the invoice.

**Prepayments.** The tax point for advance payments is when the payment is received. Special rules may apply in case of a change of tax regime, partial prepayments or partial advance invoices.

**Payments by installment.** The tax point for a supply of goods or services with installment payments is the due date for payment, as specified in the service contract, for contracts entered into before 1 January 2007. For contracts entered into after 1 January 2007, the tax point occurs when the goods are delivered or the services are rendered (unless an invoice is issued or a payment is received before that date).

**Reverse-charge services.** Certain services received by a Romanian taxable person from a foreign supplier are taxed in Romania using the reverse-charge mechanism, which means that the Romanian

customer must account for the VAT due in the VAT return for the month in which the tax point occurs. In such circumstances, the customer accounts for the VAT as both output tax and input tax in the VAT return. If the beneficiary has a full right to deduct input tax, the charge is neutral for tax purposes (see Section F).

If no invoice is received from the supplier, the Romanian beneficiary must issue a “self-invoice,” which must be in a specified format, by the 15th day of the month following the month in which the services are supplied. The time limit for issuing an invoice is the 15th day of the following month.

If the beneficiary of the service is registered for VAT in Romania, the VAT due must be paid by the 25th day of the month following the month in which the tax point occurs. However, if the beneficiary is not registered for VAT in Romania under the normal regime, the reverse charge must be accounted for by using a special VAT return (with no right of deduction; consequently, the VAT due must be paid).

## **F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is due on goods and services supplied to it for business purposes. A taxable person generally recovers input tax offsetting it against output VAT, which is VAT charged on supplies made.

In principle, input tax includes VAT charged on goods and services supplied within Romania, VAT paid on imports of goods, and VAT self-assessed for reverse-charge services received and for intra-Community acquisitions of goods.

Except for certain specific cases, the amount of VAT reclaimed must be requested through a VAT return. The excess of input VAT over output VAT is generally refundable. Alternatively, it may be offset against future VAT liabilities.

For taxable persons that are registered for VAT purposes in Romania, the minimum amount of a VAT refund is RON 5,000 (approximately €1,150). Any amount below this threshold may be recovered by offsetting it against other VAT liabilities.

Entities that are not registered for VAT in Romania may submit a request for a VAT refund based on the new EU Refund Directive or the EU 13th Directive (provided reciprocity exists in the case of the EU 13th Directive). A refund may be requested if the amount due is at least the equivalent in Romanian lei (RON) of €400 for a period shorter than a year but greater than three months, or at least the equivalent in RON of €50 for a one-year period or the remainder of a year.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used in the performance of operations subject to VAT (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Personal expenses

Protocol expenses (subject to the limitation for profits tax purposes)

Alcohol and tobacco

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

Advertising

Hotel accommodation

Conferences

Purchase of vans and trucks, and leases of cars, vans and trucks

Business travel expenses

For the period of 1 May 2009 through 31 December 2011, VAT related to the acquisition (local purchase, intra-Community acquisition or import) of motorized road vehicles owned or used by taxpayers fulfilling certain conditions, or related to acquisition of fuel destined for such vehicles, was nondeductible. However, certain exceptions were provided for vehicles (and related acquisitions of fuel) exclusively used for special purposes (for example, vehicles for sales agents, security and protection vehicles and cars used to transport equipment for television). Effective from 1 January 2012, an input VAT deduction of 50% is allowed on the acquisition of company vehicles (vehicles with up to a maximum weight of 3,500 kilograms and 9 passenger seats, including the driver's seat).

**Partial exemption.** Input tax directly related to taxable supplies is fully recoverable, while input tax directly related to exempt supplies is fully nonrecoverable. Input tax that is attributable to both taxable and exempt supplies (such as VAT paid on overhead costs) is deductible on a pro rata basis. The pro rata method is generally based on the percentage of income generated by supplies with a right to input tax deduction, divided by total income. The calculation of recoverable VAT is based generally on the pro rata percentage for the preceding year. However, a special pro rata percentage may be used if approved by the tax authorities. Pro rata percentages may also be established for each sector of the taxable person's activity that has a partial right to claim deductions.

**Refunds.** If input VAT exceeds output VAT, the balance (known as the "negative VAT balance") may be treated in either of the following manners:

- Carried forward to the next period.
- Compensated or refunded by the tax authorities, based on an option exercised by the taxpayer in the taxpayer's VAT return. This option may be exercised only for negative VAT balances exceeding RON 5,000.

The VAT refund application may cover eligible input VAT incurred in the period beginning with the fifth year before the year in which the claim is made (under certain conditions).

In principle, a VAT refund or compensation request must be dealt with within 45 days (in practice, this period may be longer). During this period, the tax authorities may request additional information from the taxpayer. Consequently, the term for making the repayment may be extended by the number of days

between the date of the request for additional information and the date on which the information is received by the tax authorities. If the refund or compensation request is not dealt with by the expiration of this term, in principle, the taxpayer is entitled to receive late payment interest.

### **G. Recovery of VAT by nonestablished businesses**

Romania refunds VAT incurred by businesses that are neither established in Romania nor required to be registered for VAT there. Nonestablished businesses may claim Romanian VAT to the same extent as VAT-registered businesses.

For businesses established in the EU, refund is made under the terms of the new EU Refund Directive. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive (under the condition of reciprocity).

For the general VAT refund rules applicable to the new EU Refund Directive and EU 13th Directive refund schemes, see the chapter on the EU, page 208.

**Refund application.** The deadline for refund claims is 30 September of the year following the calendar year in which the tax became chargeable.

Claims under the EU VAT Refund Directive may be submitted only in the country where the entity is established. The application for refund must be accompanied by the appropriate documentation (see the chapter on the EU, page 208).

In principle, the term established by the tax authorities for processing a refund application is four months from the date of submission of the application and supporting documents.

The minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year, but greater than three months, is the equivalent in RON of €400. For an annual claim or a claim for a period of less than three months, the minimum amount is the equivalent in RON of €50.

**Repayment interest.** Effective from 1 July 2010, interest at a rate of 0.05% (0.04% beginning 1 October 2010) per day of delay may be claimed by a taxable person for late refunds. Before 1 July 2010, the percentage was 0.1%.

### **H. Invoicing**

**VAT invoices and reversal invoices.** A Romanian taxable person must generally provide a VAT invoice for all taxable supplies made. Invoices that contain errors may be cancelled and the taxpayer may issue a "reversal invoice." The amount credited must be printed on the reversal invoice and must be preceded by a minus sign. A reversal invoice must contain the same information as a VAT invoice and a cross-reference must be provided.

**Proof of exports.** Goods exported from Romania are not subject to Romanian VAT. To qualify as exempt with credit, the supplier must prove that the goods left Romania. Suitable proof includes the following documentation:

- Customs documentation
- Invoices
- Other relevant documentation depending on the nature of the export

**Foreign-currency invoices.** If a VAT invoice for a transaction that takes place in Romania is issued in a foreign currency, the VAT amount must be converted into Romanian lei (RON), using the rate published by the National Bank of Romania or by the bank in charge of the payment transfers, for the date on which the tax point for the transaction occurs. The parties to the transaction must mention the applicable method in the contract.

## I. VAT returns and payment

**VAT returns.** Taxable persons with an annual turnover below the RON equivalent of €100,000 must submit VAT returns quarterly. However, effective from 1 May 2009, taxpayers who submit quarterly VAT returns must submit monthly VAT returns, effective from the date on which they perform a taxable intra-Community acquisition in Romania. All other taxable persons submit VAT returns monthly.

The due date is the 25th day of the month following the end of the return period. Payment in full is required by the same date. All VAT liabilities must be paid in Romanian currency.

Beginning with the tax returns due on 25 November 2010, large and medium-sized taxpayers must file their tax returns (including corporate income tax and VAT returns) electronically. The relevant tax returns must be signed by the taxpayer using a qualified certificate issued by a provider of certification services.

**Half-yearly declaration.** All taxable persons that are registered for VAT must also submit a half-yearly statement to the Romanian tax authorities. This statement must include all local supplies and acquisitions made in the preceding period. The due date is the 25th day of the month following the end of the period.

**Penalties.** Effective from 1 July 2010, late payment interest, charged at a rate of 0.05%, applies for each day of delay. Beginning 1 October 2010 the late payment interest rate is 0.04%. Additional late payment penalties (0%, 5% or 15%, depending on the period of delay) apply. Before 1 July 2010, late payment interest was computed at 0.1% per day of delay, and no other additional late payment penalties applied.

Fraud committed with respect to the calculation of a VAT repayment may be considered a fiscal evasion.

## J. EU declarations

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

The threshold for INTRASTAT Arrivals is RON 300,000.

The threshold for INTRASTAT Dispatches is RON 900,000.

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

INTRASTAT returns must be submitted monthly. The submission deadline is the 15th day of the month following the return period.

A penalty may be imposed for late submissions or for missing or inaccurate declarations.

**EU Sales and Acquisitions Lists.** If a Romanian taxable person makes intra-Community supplies or intra-Community acquisitions of goods in any return period, it must submit an EU Sales and Acquisitions List to the Romanian VAT authorities. Effective from 1 January 2010, the listing of intra-Community supplies or acquisitions is also required for qualifying services that are rendered to or received from a taxable person established in the EU and that are taxed where the beneficiary is established. This list is not required for any period during which the taxable person does not make any intra-Community supplies or acquisitions.

The listing of intra-Community sales or acquisitions of goods and qualifying services must be submitted on a calendar monthly basis by the 25th day of the month following the relevant month. A failure to submit an EU Sales and Acquisitions List reporting sales or acquisitions of goods by the due date is subject to a fine ranging from RON 1,000 to RON 5,000 (approximately €230 to €1,150). The submission of such list with incorrect or incomplete amounts is subject to a fine ranging from RON 500 to RON 1,500 (approximately €115 to €350). The fine does not apply if the taxable person corrects voluntarily the EU Sales and Acquisitions List by the due date for the submission of the next EU Sales and Acquisitions List.

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## Russian Federation

(Country code 7)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Nalog na dobavlenyuyu stoimost (NDS)



Date introduced	6 December 1991
European Union (EU) member state	No
Administered by	Ministry of Finance of the Russian Federation ( <a href="http://www.minfin.ru">http://www.minfin.ru</a> ) Federal Tax Service ( <a href="http://www.nalog.ru">http://www.nalog.ru</a> )
VAT rates	
Standard	18%
Reduced	10%
Other	Zero-rated and exempt
VAT number format	Tax identification number (TIN) with 10 digits
VAT return periods	Quarterly
Thresholds	
Registration	None (legal entities and private entrepreneurs may claim an exemption from the fulfillment of taxpayer obligations if, in the last three consecutive calendar months, their total amount of sale receipts did not exceed RUB 2 million; legal entities and private entrepreneurs applying special tax regimes are also exempt except for VAT payable at customs [see Section C])
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods (works and services) performed in “the territory of the Russian Federation and other territories under its jurisdiction” by a taxpayer
- The transfer of property rights by a taxpayer
- The performance of construction and the installation and assembling of works for own consumption
- The importation of goods into “the territory of the Russian Federation and other territories under its jurisdiction,” regardless of the status of the importer

“The territory of the Russian Federation and other territories under its jurisdiction” means the territory of the Russian Federation and the territories of artificial islands, installations and structures over which the Russian Federation exercises jurisdiction in accordance with the legislation of the Russian Federation and provisions of international law.

## C. Who is liable

In general, a taxpayer is any individual entrepreneur or legal entity (including a foreign legal entity) that makes taxable supplies of goods (works and services) and property rights in the

territory of the Russian Federation and other territories under its jurisdiction in the course of its business activities or that conveys goods into the territory of the Russian Federation and other territories under its jurisdiction. Foreign organizers of the Sochi 2014 Olympic Games and Paralympic Games are deemed not to be Russian VAT taxpayers.

**Tax registration.** All taxpayers are subject to tax registration. A foreign legal entity has the right to be registered where its permanent establishment is located. VAT registration alone is not permitted. A full tax registration takes place.

**Exemption from VAT payment obligations.** No VAT registration threshold applies in the Russian Federation. However, a legal entity or individual entrepreneur may be exempted from the fulfillment of obligations associated with the calculation and payment of VAT. Exemption may apply if, in the last three consecutive calendar months, the amount of receipts from the sale of goods (works and services) did not exceed a total of RUB 2 million.

Such exemption from VAT payment obligations is granted on submission of special notification to the tax authorities together with supporting documentation proving entitlement. A legal entity or individual entrepreneur that is granted exemption is not required to charge VAT or submit VAT returns, but it is restricted in its ability to recover input VAT on purchases (see Section G).

Private entrepreneurs and legal entities that are applying the simplified taxation system or carrying out the activities subject to unified tax on imputed income (the exemption applies with respect to the income from such activities only) are also exempt from VAT payment obligations, except for payment of VAT at customs.

**Group registration.** VAT group registration is not allowed under the Russian VAT law. Legal entities that are closely connected must register for VAT purposes separately.

**Foreign legal entities (nonestablished businesses).** A “nonestablished business” is a business that does not have a fixed establishment in the Russian Federation. A foreign legal entity or nonestablished business may be required to register for tax purposes in the Russian Federation.

In the Russian Federation, no separate VAT registration exists. The obligation to register with the Russian tax authorities arises if a foreign legal entity performs activity in Russia through a branch, a representative office or any other separate subdivision. A foreign organization must file an application to be registered with the tax authorities not later than 30 calendar days from the beginning of its activities in the Russian Federation. Together with the above application, a foreign organization must file the following documents:

- Its constitutive document
- An extract from the register of foreign legal entities confirming the legal status of a founder of a foreign organization
- An application confirming registration of a foreign legal entity with its tax authorities
- A document confirming a decision of an authorized body of a foreign legal entity to register a subdivision and a subdivision-establishing document (or a contract under which a foreign

legal entity performs its activity in the Russian Federation if no subdivision is created in the Russian Federation)

The obligation to register also arises if a foreign company owns immovable property or transport vehicles in the Russian Federation or opens a bank account with a Russian bank. However, tax registration for these particular reasons is not valid for the purposes of VAT.

If a foreign legal entity is not registered for tax purposes, the recipient of the supply must act as a tax agent and withhold the VAT due. A foreign legal entity that is not registered in the Russian Federation is not entitled to recover any input tax (VAT on purchases).

On tax registration, a foreign legal entity must act as a common VAT taxpayer and is eligible to recover the input VAT incurred in the Russian Federation if the VAT recoverability conditions outlined in Section G are met.

**Late-registration penalties.** The Russian tax law provides for several types of fines in the following amounts for tax registration violations:

- A penalty of RUB 10,000 is imposed for a violation by a taxpayer of the time limit established in the Tax Code for the submission of an application for registration with a tax authority on grounds provided for in the Tax Code.
- The carrying on of activities by an organization or a private entrepreneur without registering with a tax authority on grounds provided for in the tax law results in the imposition of a penalty equal to 10% of income received during that time as a result of such activities, but not less than RUB 40,000.

#### D. VAT rates

The term “taxable supplies” refers to supplies of goods (works and services) and property rights that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods (works and services) and property rights not liable to tax and that do not give rise to a right of input tax deduction (see Section F).

In the Russian Federation, the following are the VAT rates:

- Standard rate: 18%
- Reduced rate: 10%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods (works and services) and property rights and examples of goods and services that are taxed at the zero rate or reduced rate of VAT (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

Financial services on granting of loans

Rendering of services involving insurance, coinsurance and reinsurance of export credits and investments against entrepreneurial and/or political risks

Public transport

Medical services

Lease of office premises and housing to accredited representative offices of foreign entities (if reciprocal arrangements apply)

Sale of houses, living accommodation and shares in them

Provision of software and the right to use it

Services rendered by a developer under a shared-construction agreement for the construction of residential properties (except for services rendered by a developer with respect to the construction of objects for production needs)

#### **Examples of goods and services taxable at 0%**

Exports of goods and related services

Supplies to diplomats (if reciprocal arrangements apply)

Foreign passenger transportation services

Works (services) performed by Russian rail carriers involving the carriage or transportation of goods that are exported from the territory of the Russian Federation and the removal from the customs territory of the Russian Federation of products of processing in the customs territory of the Russian Federation

Works (services) connected with carriage or transportation mentioned in the item above, the cost of which is specified in documents of carriage for the carriage of the goods that are exported (processed products that are removed)

#### **Examples of goods and services taxable at 10%**

Basic foodstuffs

Certain children's goods

Medical goods

Inland Russian transportation carried out by foreign companies that are not registered with the Russian tax authorities is now subject to Russian VAT. This provision applies retroactively from 1 January 2011. VAT withholding formalities must be performed by the Russian customer of the foreign transport service provider.

### **E. Place of supply**

In general, supplies of goods (works and services) in the Russian Federation are within the scope of Russian VAT. The following goods are deemed to be supplied in the Russian Federation:

- Goods located in the Russian Federation that are not shipped or transported
- Goods located in the Russian Federation at the moment that shipment or transportation begins

The place of supply of works and services is determined according to the substance of the executed transactions. Works and services connected with immovable or movable property (for example, construction, installation, repair, and maintenance) are deemed to be supplied in the Russian Federation if the property is located in the Russian Federation. Services in the areas of culture, art, education, tourism and sport are subject to Russian VAT if physically performed in the Russian Federation.

Services specified on a list are deemed to be supplied in the Russian Federation if the buyer carries out its activity in the

Russian Federation. This list includes, but is not limited to, the following:

- Consulting
- Auditing
- Data processing
- Legal and accounting services
- Advertising and marketing services
- Transfers of copyrights
- Licenses and similar rights
- Engineering services
- Certain agency services relating to procurement
- Provision of emission reduction units granted under the Kyoto Protocol

Works and services with respect to the performance of geological study, exploration and production of hydrocarbons in the territory of the continental shelf and the exclusive economic zone of the Russian Federation are deemed to be performed in the Russian Federation.

Works and services that are not specifically covered in the relevant section of VAT law are deemed to be performed at the place of the supplier's activity.

## F. Time of supply

The moment when VAT becomes due is called the "time of supply."

For taxpayers, the time of supply is the earliest of the following dates:

- The date on which goods (works and services) or property rights are dispatched (transferred)
- The date on which payment or partial payment is made with respect to the future supply of goods, performance of work, rendering of services or transfer of property rights

**Reverse-charge services.** Reverse-charge VAT is applied to payments for works and services supplied by foreign legal entities to Russian legal entities or individual entrepreneurs. Under the reverse charge, the liability to withhold and pay VAT rests with the recipient of the supply that acts as a tax agent. The reverse charge applies in the following circumstances:

- The foreign legal entity is not registered as a taxpayer in the Russian Federation.
- The place of supply for the goods (works and services) is the Russian Federation.

In the Russian Federation, reverse-charge VAT is treated as a withholding tax. In practice, contracts entered into between a Russian legal entity and a foreign legal entity normally contain a "gross-up" provision to ensure that the net payment to the foreign legal entity is not reduced by VAT payable in the Russian Federation and that it equals the agreed contract price for the supplied goods (works and services).

## G. Recovery of VAT by taxpayers

A taxpayer may recover input tax, which is VAT charged on goods (works and services) and property rights supplied for carrying out activities within the scope of VAT. A taxpayer generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods (works and services) and property rights supplied in the Russian Federation, VAT paid on imports of goods and VAT paid to the Russian budget by a buyer acting as a tax agent with respect to the acquisition of goods (works and services) from a foreign legal entity.

In general, VAT is recoverable after the goods (works and services) or property rights have been received and a VAT invoice has been obtained from a supplier. The same procedure applies to VAT incurred on construction (including construction carried out by the taxpayer for its own use). For a prepayment to a supplier, the buyer may recover VAT on such prepayment (that is, before the relevant goods [works and services] are received by the buyer).

The amount of VAT reclaimed must be indicated separately on a VAT invoice (a special document established exclusively for VAT purposes) issued in conformity with the provisions of the Russian VAT law.

**Nondeductible input tax.** Input tax cannot be recovered on purchases of goods (works and services) and property rights that are not used for making supplies within the scope of VAT (for example, goods purchased for private use by an entrepreneur). In addition, input tax cannot be fully recovered with respect to some business expenses (that is, expenses that are limited for profits tax deduction).

The following tables provide examples of expenses for which input tax is not deductible and examples of expenses for which input tax is deductible if made for business purposes (these lists are not exhaustive).

#### **Examples of items for which input tax is nondeductible**

Personal expenses

Home telephone expenses

Parking

Restaurant meals

#### **Examples of items for which input tax is deductible**

Purchase, lease or hire of a car, van and truck

Fuel for cars, vans and trucks

Car maintenance

Business entertainment and travel\*

Conferences\*

Advertising\*

Hotel accommodation\*

Mobile phone expenses

\* Special rules providing how deductible input VAT amounts should be calculated may apply.

**Partial exemption.** If a Russian taxpayer makes both exempt supplies and taxable supplies, it must account for them separately. Input VAT directly related to taxable supplies is recoverable in full, while input VAT directly related to exempt supplies is not recoverable and must be expensed for Russian profit tax purposes. Input VAT that may not be directly attributed to taxable or exempt supplies (such as VAT on business overhead costs) must be apportioned. The statutory method of apportionment is a pro

rata calculation, based on the value of taxable supplies made compared with the total turnover of the business.

**Refunds.** If the amount of input tax recoverable in a quarterly period exceeds the amount of output tax payable in that period, the taxpayer is entitled to an input tax credit. After a taxpayer has submitted a VAT return, the tax authorities check the validity of the amount claimed as refundable in the course of performing an in-house tax audit. If the tax authorities confirm the amounts claimed in the relevant VAT return, the decision on the reimbursement of VAT must be adopted within seven days. On the basis of a written application of the taxpayer, the confirmed amount of VAT can be refunded to the bank account of the taxpayer or can be credited towards the other outstanding federal tax liabilities.

Under certain conditions, the reimbursement (offset or refund) of VAT may be granted to taxpayers “in advance;” that is, before the completion of an in-house tax audit of the returns submitted. If no indebtedness arises from taxes, penalties and/or fines, against which reimbursable VAT may be offset, the amount of VAT may, at the taxpayer’s request, be returned in cash to a bank account during the 16 days from the moment that the VAT return is submitted to the tax authorities. Alternatively, a taxpayer may claim the amount of reimbursable VAT for offset against future tax payments with respect to VAT or other federal taxes.

If the in-house tax audit subsequently results in the tax authorities’ partial or full refusal to reimburse VAT, the relevant amounts of arrears, penalties and interest for using the monetary resources (VAT paid back to the taxpayer) must be paid to the budget.

The right to use the accelerated procedure of VAT reimbursement is granted to the following two categories of taxpayers:

- Taxpayers that are companies whose gross total amount of VAT, excise duties, profit tax and mineral extraction tax (except for the amount of taxes paid on transfer of goods over the border of the Russian Federation and taxes paid by the taxpayer as a tax agent), paid for the three preceding calendar years is no less than RUB 10 billion, provided that at least 3 years have passed from the date of the relevant company’s foundation to the date of submission of the VAT declaration
- Taxpayers that have submitted a suitable bank guarantee to the tax authorities with their VAT returns

**Restoration of VAT previously offset.** If assets, intangible assets and property rights are transferred as a contribution to the charter capital of a company or partnership or as share contributions to the share fund of a cooperative or if these assets are subsequently used in carrying out the VAT-exempt operations, the amount of input VAT must be repaid or “restored.” The amount of restoration is the VAT previously claimed as a deduction or, with respect to fixed assets and intangible assets, an amount proportional to the net book (balance sheet) value without taking account of any revaluation.

#### **H. Recovery of VAT by nonestablished businesses**

VAT recovery is made exclusively by registered persons that make taxable supplies in the Russian Federation. VAT incurred by a

foreign legal entity is not recoverable, unless the foreign legal entity performs supplies subject to VAT in the Russian Federation and elects to register.

If a foreign legal entity is registered with the Russian tax authorities as a representative office, VAT incurred on purchase of goods (including imported goods), works, services and property rights is generally recoverable if the following VAT recoverability criteria are met:

- The purchased goods (works and services) or property rights are to be used in the course of an activity subject to VAT.
- All proper supporting documents (including VAT invoices that contain all required details) are in place.
- The purchased goods (works and services) or property rights are properly reflected in the buyer's accounting ledgers.
- Customs VAT for imported goods is paid to the Russian customs authorities.

**Refund application.** The VAT refund application must be sent to the appropriate tax office. The application must be completed in Russian. The refund is made in rubles (RUB) to a bank account held in the Russian Federation. In general, refunds are made only after an in-house tax audit carried out at the location of the tax authorities (see Section G). The tax authorities may request any of the following documentation for the VAT audit:

- Original VAT invoices
- Documents confirming the tax has been paid or withheld
- Contracts
- Sales and purchase ledgers
- Primary documents supporting amounts reflected in the submitted VAT returns

**Interest on refunds.** The Russian VAT law requires the tax authorities to pay a refund no later than five days following the positive decision regarding the VAT refund claim of a taxpayer. In practice, however, refunds are often delayed.

If a refund is made with delay, the tax authorities must pay interest, accrued at the refinancing rate of the Russian Central Bank (as of 3 May 2011, the rate was 8.25%) for each day of delay, beginning with the 12th day after the completion of the in-house audit of the relevant VAT return.

## I. Invoicing

**VAT invoices and credit notes.** In general, a Russian taxpayer must provide a VAT invoice for the supplies. Invoices must be issued in Russian, but bilingual invoices may be issued in Russian and another language.

A VAT invoice may be issued in electronic format by mutual agreement of the counterparties, provided that both parties have compatible information technology (IT) facilities for the receipt and processing of such an invoice.

The Russian Ministry of Finance establishes the procedure for the issuance and receipt of VAT invoices in electronic format. The Russian Federal Tax Service separately establishes the formats of VAT invoices, journals of VAT invoices received and issued, and sales and purchase ledgers in electronic format.



Effective from 1 October 2011, taxpayers may issue corrective VAT invoices. Corrective VAT invoices are allowed on the change in the value of a transaction, particularly price changes or changes of sales volume. The value may be either increased or decreased.

An increase of the value of a transaction results in the supplier charging additional VAT for the tax period in which the transaction takes place. The supplier issues a corrective VAT invoice indicating (among other details) the upward change as a positive amount. The receipt of the corrective VAT invoice provides the purchaser with grounds to offset the amount of VAT arising from the increase in the value of the transaction in the period in which the corrective VAT invoice is received.

On a decrease in the value of a transaction the supplier issues a corrective VAT invoice indicating (among other details) the downward change as a negative amount. This invoice provides the supplier with grounds to offset the reduction in VAT caused by the decrease in the value of the transaction in the period in which the corrective VAT invoice is issued. The purchaser, in turn, must restore the excess amounts of input VAT resulting from a downward change in the value of a transaction.

**Proof of exports.** Goods exported from the Russian Federation as well as some types of works and services related to exports are subject to a 0% VAT rate in the Russian Federation. To confirm the applicability of the 0% rate, the supplier must collect and provide to the tax authorities a package of supporting documents.

**Foreign-currency invoices.** In practice, the issuance of VAT invoices in rubles is preferable. If a VAT invoice is issued in a foreign currency, all values required for VAT purposes must be converted into rubles for tax purposes, using the rate published by the Russian Central Bank on the date of the determination of the tax base or on the date on which the expenses are actually incurred.

## J. VAT returns and payment

**VAT returns.** Taxpayers file VAT returns quarterly. The VAT amount per VAT return must be paid equally in three months after the relevant tax period. For example, the VAT amount payable under the VAT return for the first quarter must be paid according to the following schedule:

- One-third of the VAT must be paid by 20 April.
- One-third of the VAT must be paid by 20 May.
- One-third of the VAT must be paid by 20 June.

VAT payable under the reverse-charge mechanism is accounted for separately and must be paid by the tax agent at the same time as payment is made to the supplier.

**Penalties.** The Russian tax law provides for the following fines with respect to the filing of VAT returns:

- Late filing: penalty ranging from 5% to 30% of the underpaid tax, depending on the duration of the delay
- Severe violation of revenue and expenses accounting regulations in one tax period: penalty of RUB 10,000
- Severe violation of accounting regulations in more than one tax period: penalty of RUB 30,000

- Severe violation of accounting regulations leading to the understatement of the tax base: penalty of 20% of the underpaid tax, but not less than RUB 40,000
- Nonpayment or partial payment of the tax: penalty of 20% of the underpaid tax
- Willful nonpayment or partial payment of the tax: penalty of 40% of the underpaid tax

In addition, criminal charges may be imposed for “willful or negligent conduct of business that results in the defrauding of the State.”

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 2001
European Union (EU) member state	No
Member of the Southern African Customs Union	No
Administered by	Rwanda Revenue Authority (www.rra.gov.rw)
VAT rates	
Standard	18%
Other	Zero-rated and exempt
VAT number format	P000111111A
VAT return periods	Monthly
Thresholds	
Registration	Frw 20 million (in 12 months)
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services in Rwanda by a taxable person
- Reverse-charge services received by a taxable person in Rwanda

- The importation of goods from outside Rwanda, regardless of the status of the importer (unless the import qualifies for VAT waiver under the investment code or the importer has been granted a VAT exemption)

The exportation of goods and taxable services is zero-rated if, subject to the satisfaction of the tax administration, the export has taken place and evidence exists that the export proceeds will be repatriated into Rwanda.

### C. Who is liable

The consumers of taxable goods and services pay VAT. Registered taxpayers (traders), which act as the agents of the government, collect VAT. The Customs Services Department collects VAT on imported goods, while the Domestic Taxes Department collects local VAT and VAT on imported services.

VAT registration is dependent on the attainment of a turnover threshold of Frw 20 million. Businesses that do not attain this turnover threshold may voluntarily register.

**Group registration.** The Rwandan VAT Act allows group registration. However, in practice, group registration is allowed in special circumstances only.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Rwanda. A foreign business is not required to register for VAT unless it has a permanent establishment in Rwanda. A permanent establishment of a foreign business must register for VAT if it makes taxable supplies of goods or services. Other nonestablished businesses are not required to register for VAT. Instead, a person importing goods or services from a nonresident must pay the Rwandan VAT due.

**Late-registration penalties.** Stiff penalties may be imposed in the event of late registration by traders that meet the turnover threshold.

Penalties apply to a range of other VAT offenses (see Section I).

### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are subject to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not subject to tax. Persons that make exempt supplies are not entitled to input tax deduction (see Section F).

The following are the VAT rates in Rwanda:

- Standard rate: 18%
- Zero rate (0%)

The standard rate of VAT generally applies to all supplies of goods or services. The zero rate applies to exports of goods and taxable services, as well as to other specified products.

The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Unprocessed agricultural products  
 Educational services  
 Medical services  
 Agricultural, animal husbandry and horticultural services  
 Transportation of passengers (excluding for hire)

**Examples of goods and services taxable at 0%**

Exports of goods  
 Exports of taxable services  
 Goods and services supplied to diplomatic and consular missions

**E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” In Rwanda, the tax point is the earliest of the following events:

- The goods or services are supplied.
- An invoice is issued.
- Payment is received for all or part of the supply.

Other tax points apply in a variety of specific situations.

**Imports.** The time of the supply for imported goods is either the date of importation or the date on which the good are processed for customs clearance.

**F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is claimed by deducting it from output tax, which is VAT charged on supplies made. Taxable persons must claim input tax within three years after incurring the expense.

Input tax includes VAT charged on goods and services purchased in Rwanda and VAT paid on imports of goods and services.

**Nondeductible input tax.** VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain business expenses.

The following table provides examples of items of expenditure for which input tax is not deductible (this list is not exhaustive).

**Examples of items for which input tax is nondeductible**

Purchase and hire of passenger cars  
 Business gifts  
 Business entertainment  
 Fuel for vehicles (apportioned)  
 Mobile telephone bills (apportioned)

**Partial exemption.** VAT directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies cannot recover VAT tax in full.

Under Rwandan VAT law, if a taxable person supplies both taxable and exempt goods and services, only input tax attributable to

taxable supplies may be recovered. The amount of the claimable input tax is determined using a standard method or an attribution method approved by the Commissioner General.

**Refunds.** A taxable person may claim a refund of input tax in excess of output tax.

The claim for a VAT refund must be made within three years after the date on which the tax became payable. Within six months after the date on which a person becomes registered, the person may file a claim for relief from VAT paid on stock held (goods held for trading) before registration.

### G. Recovery of VAT by nonresidents

Rwanda does not refund VAT incurred by a foreign business, unless the foreign business has a permanent establishment in Rwanda and is registered for VAT in Rwanda.

### H. Invoicing

**VAT invoices and credit notes.** A supplier of taxable goods and services must issue a tax invoice to the purchaser at the time of supply. Simplified tax invoices may be used if the sales to any one person in a day do not exceed a threshold determined by the Commissioner General.

A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes must show the same information as a tax invoice.

**Proof of exports.** Goods exported from Rwanda are zero-rated. However, to qualify for zero rating, exports must be supported by evidence that proves the goods left Rwanda. Suitable evidence includes the following documents:

- A sales invoice
- A bill of lading, road manifest or airway bill
- A customs export entry (document issued by Customs as evidence that goods have been cleared to leave Rwanda's customs territory)

**Foreign-currency invoices.** Foreign-currency invoices are handled in the same manner as invoices in local currency.

### I. VAT returns and payment

**VAT returns.** The VAT tax period is one month. Returns must be filed by the 15th day after the end of the tax period. Payment is due in full by the same date. A "nil" return must be filed if no VAT is payable. A refund claim return must be filed if input tax exceeds output tax in a given tax period.

If the normal filing date falls on a public holiday or on a weekend, the VAT return must be submitted on the next working day after such day.

**Penalties.** The late submission of a return is subject to a penalty of up to Frw 500,000, plus 10% of the tax due and late payment interest charged at a rate corresponding to the monthly central bank lending rate to commercial banks, not compounded. Other major penalties for VAT offenses include 200% of tax evaded and possible criminal prosecution for fraudulent evasion of VAT.

# Singapore

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## A. At a glance

Name of the tax	Goods and services tax (GST)
Date introduced	1 April 1994
Administered by	Inland Revenue Authority of Singapore (IRAS) ( <a href="http://www.iras.gov.sg">http://www.iras.gov.sg</a> )
GST rates	
Standard	7%
Other	Zero-rated and exempt
GST number format	
Local	M2-1234567-8, MR-1234567-8 and 19-9012345-X
Nonresident	F2-1234567-D
GST return periods	Quarterly Monthly (optional, subject to approval from the Comptroller of GST)
Thresholds	
Registration	S\$1 million
Recovery of GST by nonestablished businesses	No (unless the nonestablished business is registered for GST in Singapore)

## B. Scope of the tax

GST applies to the following transactions:

- Taxable supplies of goods and services in Singapore, made in the course of a business by a taxable person
- Imports of goods into Singapore

## C. Who is liable

A taxable person is a person who is registered or is required to be registered for GST.

**Compulsory registration.** The GST registration threshold is S\$1 million. For compulsory registration, the threshold applies in the following ways if a person has begun making taxable supplies:

- Retrospectively: registration is required if, at the end of any quarter, the value of taxable supplies in that quarter and the preceding three quarters exceeds S\$1 million. However, registration is not required if the Comptroller of GST (the Comptroller) is satisfied that the value of taxable supplies in the following four quarters is not expected to exceed S\$1 million.
- Prospectively: registration is required if at any time reasonable grounds exist for believing that the value of taxable supplies in the next 12 months is expected to exceed S\$1 million.

Under the first test above, a business must notify the Comptroller within 30 days after the end of the relevant quarter. Under the second test, a business must notify the Comptroller within 30 days after the beginning of the relevant period.

**Voluntary registration.** If a business has not yet made taxable supplies or if the value of its taxable supplies is below the registration limit, the business may register for GST voluntarily. A business that registers for GST voluntarily must remain registered for at least two years.

Under the GST law, “taxable supply” is defined as a supply of goods or services made in Singapore other than an exempt supply. Based on this definition, businesses that make wholly exempt supplies would not be eligible for GST registration. However, the GST Act allows a person that is not liable to be registered to apply for voluntary registration if it makes exempt supplies of financial services (as specified in Paragraph 1 of the Fourth Schedule to the GST Act) if the services would have qualified as international services if they were made by a taxable person.

In addition, a person who is not liable for GST registration may also apply for voluntary registration if the person makes or intends to make the following supplies:

- Supplies outside Singapore that would be taxable supplies if made in Singapore
- Supplies that are disregarded for GST purposes under the warehousing regime or Approved Contract Manufacturer and Trader Scheme and that would otherwise be taxable supplies

However, a person in the above scenarios must satisfy both of the following conditions:

- He or she must have a business establishment in Singapore or have his or her usual place of residence in Singapore.
- He or she does not make or intend to make taxable supplies.

**Group registration.** Businesses that are under “common control” may apply to register as a GST group. Each member must be individually registered for GST. After group members are registered as a GST group, they are treated as a single taxable person and submit a single GST return. Supplies made between members within the same GST group are disregarded for GST purposes. Group members are jointly and severally liable for all GST liabilities.

A person that is not resident in Singapore or does not have an established place of business in Singapore may be part of the GST group if certain criteria are satisfied. If the GST group includes a person not resident in Singapore or not having an established place of business in Singapore, the representative member must satisfy additional criteria.

**Divisional registration.** If a taxable person carries on more than one business or operates several divisions, the person may apply to the Comptroller to register any of the businesses or divisions separately. Divisional registrations ease the GST administration for such businesses. On approval, each division is given a separate GST registration number and submits its own GST return. Supplies made between divisions within the divisional registration are disregarded for GST purposes.

**Exemption from registration.** A taxable person that makes substantially zero-rated supplies may request exemption from registration. Approval is subject to the Comptroller's discretion.

However, if any material change occurs with respect to the nature of supplies or proportion of zero-rated supplies, the taxable person is required to notify the Comptroller within 30 days after the date of the change or, if no particular date is identifiable as the date of the change, within 30 days after the end of the quarter in which the change occurred.

**Deregistration.** A business that ceases operations must cancel its GST registration. A business that must deregister must notify the GST authorities within 30 days after ceasing to make taxable supplies.

A taxable person whose value of taxable supplies is not expected to exceed S\$1 million in the next 12 months may request deregistration from GST.

**Nonestablished businesses.** A "nonestablished business" is a business that has no fixed establishment in Singapore. A business that is not established in Singapore must register for GST if it makes taxable supplies exceeding the registration threshold of S\$1 million. A representative office of a nonestablished business in Singapore may also register for GST and reclaim input tax on expenses, even if it does not make taxable supplies.

**Tax representatives.** A nonestablished business must appoint a local tax representative to register for GST.

**Late-registration penalties.** Penalties are imposed for failure to register for GST, late payment of GST, late submission of GST returns, and the submission of incorrect returns.

**GST schemes.** A variety of schemes are available to assist businesses to ease the administrative burden associated with GST compliance, as well as to improve cash flow. These schemes include the Major Exporter Scheme (MES), the Approved Contract Manufacturer and Trader Scheme (ACMT), the Approved Third Party Logistics Company Scheme, the Import GST Deferral Scheme (IGDS), the Approved Marine Customer Scheme (AMCS) and the Specialised Warehouse Scheme (SWS). The AMCS and SWS are both effective from 1 October 2011.

## D. GST rates

The term "taxable supplies" refers to supplies of goods and services that are liable to GST, including supplies that qualify for zero rating relief (subject to GST at 0%). The term "exempt supplies" refers to supplies of goods and services that are exempt from GST. Exempt supplies do not give rise to a right of input tax deduction (see Section F).



The standard rate of GST in Singapore is 7%. The standard rate of GST applies to all supplies of goods or services, unless the supplies qualify for zero rating relief or exemption.

Exports of goods and international services are zero-rated. International services that qualify for zero rating are specifically listed in the GST Act. Exempt supplies include the sale or lease of residential property and financial transactions listed in the Fourth Schedule to the GST Act.

**Zero-rating to stimulate certain sectors.** In his 2011 Budget Statement, Singapore's Minister for Finance announced GST zero-rating measures designed to benefit various industries and sectors of the economy. The reliefs are effective from 1 January 2012, but they apply retroactively for the period 1 October 2011 to 31 December 2011 through remission of the GST.

The following measures apply to the marine sector:

- An Approved Marine Customer Scheme to allow "approved marine customers" to buy or rent zero-rated goods for use or installation on internationally bound commercial ships
- Expansion of the scope of repair and maintenance services relating to ship parts or components qualifying for zero-rating relief

The following measures apply to the biomedical industry:

- GST relief on importation of clinical trial materials (CTMs) into Singapore
- An extension of the enhanced Approved Contract Manufacturer and Trader Scheme to qualifying biomedical contract manufacturers

Zero-rating relief is granted for specified supplies made to overseas persons for goods kept in "approved specialized warehouses" in Singapore (the Specialized Warehouse Scheme).

The scope for GST recovery on goods imported on behalf of overseas persons is expanded to allow the following:

- Local agents approved under the import GST suspension scheme may also suspend GST if goods are imported for an overseas person for subsequent re-export.
- Local agents may recover tax on the importation of goods, notwithstanding that the nature or form of the imported goods subsequently supplied by the local agent changes.

## **E. Time of supply**

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

Before 1 January 2011, in general, the time of supply for goods was the earliest of the following events:

- The date on which the goods were removed from the supplier's premises or, if not removed, were made available
- The date of issuance of a tax invoice
- The date of receipt of payment

Before 1 January 2011, in general, the time of supply for services was the earliest of the following events:

- The date on which the service was performed
- The date of issuance of a tax invoice
- The date of receipt of payment

However, if the supplier issued a tax invoice within 14 days after delivering goods or performing a service, the time of supply became the date on which the invoice was issued, provided no payment had been received before either the removal of the goods or the performance of the services (also known as the “14-day rule”).

Effective from 1 January 2011, the general time-of-supply rules are simplified. The new time of supply for both goods and services is the earliest of the following events:

- The date of issuance of an invoice
- The date of receipt of payment

As a result of the simplification of the general time-of-supply rules, the 14-day rule is also removed.

However, exceptions to the above time-of-supply rules exist.

**Imported goods.** The time of supply for imported goods is either the date of importation, or the date on which the goods leave a duty suspension regime or free-trade zone.

## F. Recovery of GST by taxable persons

A taxable person may recover the GST incurred on its expenses as input tax if the input tax is incurred in the making of taxable supplies or certain prescribed supplies. Input tax with respect to a taxable person refers to GST incurred on goods and services or goods imported into Singapore that are used or to be used for the purpose of any business carried on or to be carried on by the taxable person. A taxable person generally recovers input tax through its GST returns, by deducting it from output tax, which is GST charged on supplies made.

Input tax must generally be claimed in the accounting period in which the tax invoice is issued.

A valid tax invoice or customs import permit must be held to support a claim for input tax.

A taxable person is required to repay to the IRAS any input tax claimed for which payment has not been made to the supplier for more than 12 months after the due date of the payment.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by a taxable person). In addition, input tax may not be recovered for some items of business expenditure. The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Purchases used for nonbusiness purposes

Purchase, lease, hire, maintenance and running costs of private motor cars

Club subscriptions

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

Advertising

Purchase of inventory

Purchase, lease, hire and maintenance of trucks and vans

Business entertainment

Attendance at conferences

**Partial exemption.** Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, the person may not recover the person's input tax in full. This situation is referred to as "partial exemption." Zero-rated supplies are treated as taxable supplies for these purposes.

Partial exemption recovery is calculated in the following two stages:

- The first stage identifies the input tax that may be directly attributable to taxable and to exempt supplies. Input tax directly attributable to taxable supplies is deductible (unless specifically not deductible under the GST Act), while input tax directly related to making exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The calculation may be performed using the ratio of the value of taxable supplies over the value of total supplies (that is, taxable and exempt supplies), or it may be based on a special calculation agreed to with the Comptroller.

Notwithstanding the above provisions, if the value of a taxable person's exempt supplies for an accounting period does not exceed both the average of S\$40,000 per month and 5% of the total value of taxable and exempt supplies made in that accounting period, the input tax relating to the exempt supplies is treated as entirely attributable to taxable supplies. The threshold was increased from S\$20,000 to S\$40,000 for prescribed accounting periods or longer periods beginning on or after 1 April 2008. In addition, the GST Act provides relief for a partially exempt business to be treated as fully taxable if it makes only certain types of exempt supplies.

**Repayments.** If the amount of input tax recoverable in a GST period exceeds the output tax in the same period, the excess is refundable. Refunds are generally made within three months after the date on which the Comptroller receives the GST return. If a taxable person submits monthly returns, the refund is generally made within one month from the date of receipt.

Interest at the prime lending rate is payable on the amount of any GST refund that is outstanding. Interest is calculated from the date on which the refund is due from the GST authorities.

### **G. Recovery of GST by nonestablished businesses**

Singapore does not refund GST incurred by nonestablished businesses that are not registered for GST in Singapore. Nonestablished businesses that are registered for GST may obtain a refund of GST only through the filing of GST returns.

## H. Invoicing

**Tax invoices and credit notes.** A taxable person must issue a tax invoice for standard-rated supplies made to another taxable person within 30 days. A simplified tax invoice may be issued if the amount payable (including GST) does not exceed S\$1,000. The format of a tax invoice and a simplified tax invoice are prescribed by the GST law.

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

A credit note may be used to reduce the GST charged and reclaimed on a supply of goods or services if a valid adjustment has been made. The document must contain generally the same information as a tax invoice, as well as the amount of tax credited, and it must refer to the date and number of the original tax invoice for the supply. If the date and number of the original tax invoice for the supply cannot be traced or identified, the taxable person must be able to satisfy the Comptroller by other means that the person has accounted for tax on the original supply.

**Proof of exports.** Exports of goods are zero-rated for GST purposes if they are supported by evidence confirming the departure of the goods from Singapore. The evidence required includes the following documents:

- Export permit
- Bill of lading or airway bill
- Original invoice

**Foreign-currency invoices.** If a tax invoice is issued in a foreign currency, the total amount payable before GST, the GST chargeable, and the total amount payable including GST must be converted to the Singapore dollar equivalent. The foreign currency must be converted to the Singapore dollar equivalent based on the selling rate of exchange prevailing at the time of supply. In practice, the Comptroller allows companies to apply the daily exchange rates (that is, the buying or selling rate, or the average of the two) of any banks operating in Singapore, or the exchange rates published by Singapore Customs. The Comptroller has extended the sources of acceptable exchange rates if the rates satisfy the following conditions:

- They are reflective of the Singapore money market at the relevant date. For example, exchange rates obtained from local banks, Singapore Customs, locally circulated newspapers, reputable news agencies and foreign central banks without exchange controls are acceptable to the IRAS.
- They are the daily buying rates, average of the buying and selling rates, or a good approximation of the daily exchange rates, corresponding to the time of supply.
- They are updated at least once every three months.
- They are consistently used for internal business reporting, accounting and GST purposes.
- They are used consistently for at least one year from the end of the accounting period in which the method was first used.

If the exchange rates used by businesses do not comply with these conditions, it is necessary for the companies involved to seek the Comptroller's approval of the use of an acceptable exchange rate.

## I. GST returns and payment

**GST returns.** Taxable persons generally file GST returns quarterly. However, taxable persons that receive regular refunds of GST may seek approval to file their returns monthly, to ease cash flow. Effective from 1 January 2007, all newly registered businesses must file GST returns electronically.

The GST return, together with payment in full, must be submitted by the last day of the month following the end of the return period.

**Penalties.** A penalty of 5% of the tax due is assessed for late payment of GST. If the amount remains outstanding after 60 days, an additional penalty is assessed, equal to 2% of the tax due for each month, up to a maximum of 50% of the unpaid tax.

A penalty of S\$200 per month is assessed for the late submission of a GST return, up to a maximum penalty of S\$10,000.

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## Sint Maarten

*Please direct all queries regarding Sint Maarten to the following persons in the Curaçao office:*

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*Effective from 10 October 2010, the Netherlands Antilles consisting of five territories in the Caribbean Sea (Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten) was dissolved. Curaçao and Sint Maarten became autonomous countries within the Kingdom of the Netherlands. Curaçao and Sint Maarten have their own laws and regulations. Bonaire, Saba and Sint Eustatius (the BES-Islands) are now extraordinary overseas municipalities of the Netherlands, but they have their own tax system including a simplified general expenditure tax regulation. Chapters on the BES-Islands and Curaçao appear on pages 72 and 147, respectively. The following chapter provides information on taxation in Sint Maarten only.*

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### A. At a glance

Name of the tax	Revenue tax (RT)
Local name	Belasting op bedrijfsomzetten Landsverordening belasting op bedrijfsomzetten 1997
Date introduced	1 January 1997
European Union (EU) member state	No
RT rates	
Standard	5%
Other	Exempt
RT number format	4XX.XXX.XXX (9 digits)
RT return periods	Monthly (annually on request)

Thresholds	None
Recovery of RT by nonestablished business	No

## B. Scope of the tax

RT applies to the following transactions:

- Delivery of goods or services by a local entrepreneur in the course of its business in Sint Maarten
- Delivery of goods or services in Sint Maarten by a foreign entrepreneur in the course of its business in Sint Maarten

## C. Who is liable

In principle, an entrepreneur is a business entity or individual that delivers goods or performs services (engages in taxable activities) in Sint Maarten. Effective from 11 February 2011, the definition of an entrepreneur is broadened. A person who manages an asset to obtain revenue from the asset on a permanent basis also qualifies as an entrepreneur. For example, leasing of real estate located in Sint Maarten is now subject to RT, unless an exemption applies. The entrepreneur realizing the revenue is liable to RT.

Before amendments in 2011, the place of services provided by a nonresident entrepreneur was the place where the services were performed. The nonresident entrepreneur providing the services was required to remit the RT. Effective from 11 February 2011, for RT purposes, the place of services provided by a nonresident entrepreneur is now where the services are enjoyed instead of where the services are performed. In principle, the nonresident entrepreneur who provides the services must pay the RT on these services. However, an entrepreneur resident in Sint Maarten for whom the services are performed must report the RT if the nonresident entrepreneur does not report and remit RT on such services. The entrepreneur resident in Sint Maarten is held liable for RT not remitted by the nonresident entrepreneur. To avoid non-compliance, the nonresident entrepreneur and the entrepreneur resident in Sint Maarten can file a joint request to apply the reverse-charge mechanism and the entrepreneur resident in Sint Maarten declares and pays RT.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Sint Maarten. A nonestablished business may become liable for RT and accordingly become subject to registration if a permanent establishment is deemed to be present in Sint Maarten. The Sint Maarten law does not provide a definition of a permanent establishment.

If goods are delivered by a nonestablished business and if these goods must be transported for delivery, the place where the transportation originates is considered to be the place of delivery. In other cases, the place of delivery of goods is considered to be the place where the goods are physically located at the moment of delivery.

Special rules apply to E-zone companies, offshore companies and offshore banks.

*E-zones.* E-zone companies are not liable for RT on their supplies of services or goods to nonresidents.

*Offshore companies and offshore banks.* Offshore companies and offshore banks with a foreign-exchange license are generally not liable for RT on their offshore activities. The offshore regime is grandfathered up to and including 2019.

**Group registration.** RT grouping is not allowed under the RT law. Legal business entities that are closely connected must register for RT individually.

**Late-registration penalties.** In general, an entrepreneur that begins to perform taxable activities must register with the tax authorities. No specific deadline for registration is imposed. In addition, no specific penalty for late registration is imposed. However, if the late registration results in the late payment of RT or the late submission of RT returns, penalties may be imposed.

## D. RT rates

The term “taxable supply” refers to a supply of goods and services that are liable to RT. The term “exempt supply” refers to a supply of goods and services that are not liable to RT. The term “revenue” refers to all the payments that the entrepreneur receives for the delivery of goods or services in the course of its business, excluding interest.

The standard RT rate of 5% applies to revenue realized from the delivery of taxable supplies, unless a specific measure provides for an exemption.

The following table provides examples of exemptions (this list is not exhaustive).

### Examples of exempt supplies of goods and services

Medical services

Basic necessities such as bread, milk and sugar

Water and electricity services

Transportation services

Betting and gaming (casino)

Services to an E-zone entity

Postal services

Effective from 11 February 2011, an exemption applies to revenue realized from the lease of real estate that is equipped and designated for permanent residence. The exemption applies to lease income from residences that are primarily and permanently used by individual residents of Sint Maarten.

**Exports.** Revenue realized from supplies of exported goods by an “export entrepreneur” is exempt from RT. However, to qualify for an RT exemption, exports must be supported by evidence that confirms that the goods have left Sint Maarten.

An “export entrepreneur” is an entrepreneur that realizes 50% or more of its total revenue by exporting goods outside Sint Maarten.

## E. Time of supply

The time when RT becomes due is called the “time of supply.” The basic time of supply for taxable supplies is when the payments of the taxable supplies are received.

In Sint Maarten, an invoice must be issued within 15 days following the end of the month in which the supply or services take place. Alternatively, the time of supply becomes the date on which the invoice is issued.

## F. Recovery of RT

RT may not be recovered in Sint Maarten.

## G. Invoicing

**RT invoices and credit notes.** An entrepreneur must provide an invoice for all taxable supplies made, including exports.

Taxable entrepreneurs must retain copies of invoices for 10 years.

An RT credit note must be issued if the quantity or consideration shown on an invoice is altered. In general, credit notes must contain the same information as the original invoices.

## H. RT returns and payment

**RT returns.** RT returns are generally submitted for monthly periods. However, on the request of the entrepreneur, the tax authorities may allow annual periods if they consider annual periods appropriate. Returns must be filed and RT due must be paid by the 15th day of the month following the end of the reporting period. The RT due for the period must be remitted together with the return.

**Penalties.** RT penalties are assessed for the late submission of an RT return or for the late payment of RT, in the following amounts:

- For the late submission of an RT return, the maximum fine is ANG 2,500.
- For the late payment of RT, fines ranging from 5% to 15% of the amount of the additional assessment may be imposed, with a maximum fine of ANG 10,000.
- For a late payment caused by negligence or dishonest conduct, fines ranging from 25% to 100% of the RT payable may be imposed.

Criminal penalties may also apply in certain circumstances, such as in cases of fraudulent conduct.

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# Slovak Republic

(Country code 421)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Daň z pridanej hodnoty (DPH)
Date introduced	1 January 1993
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	Ministry of Finance ( <a href="http://www.finance.gov.sk">http://www.finance.gov.sk</a> ) Financial Directorate ( <a href="http://www.drsrc.sk">http://www.drsrc.sk</a> )
VAT rates	
Standard	20% (effective from 1 January 2011, temporarily increased from 19% until the public finance debt is less than 3%)
Reduced	10%
Other	Exempt and zero-rated
VAT number format	SK0123456789
VAT return periods	Monthly Quarterly (turnover below €331,939.19 for the preceding calendar year; VAT payers may elect to file monthly, regardless of turnover)
Thresholds	
Registration	Turnover of €49,790 in a maximum period of 12 consecutive calendar months
Intra-Community acquisitions	Value of intra-Community acquisitions of €13,941.45 in a calendar year
Distance sales	Value of €35,000 for goods in distance sales supplied in a calendar year
(Taxable persons may elect to voluntarily register, regardless of the value of turnover supplied or acquired goods.)	
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods effected for consideration in the Slovak Republic by a taxable person acting as such
- The supply of services effected for consideration in the Slovak Republic by a taxable person acting as such
- The acquisition of goods from another EU member state for consideration (see the chapter on the EU, page 208)
- The importation of goods

VAT also applies to the following transactions:

- The supply of goods by the VAT payer for the payer's private use or for the private use of the payer's staff, and of goods supplied free of charge or supplied for any purpose other than that of the VAT payer's business, if the input VAT is wholly or partly deductible

- The supply of services carried out by the VAT payer free of charge for the payer's private use, for the private use of the payer's employees or for any purpose other than that of the payer's business
- The relocation of goods owned by a taxable person from the Slovak Republic to another EU member state (or vice versa) effected by the taxable person or on the taxable person's account, for the purposes of the taxable person's business (exceptions apply; see the chapter on the EU, page 208)
- The use of tangible assets in the possession of the VAT payer for the payer's private use, for the private use of the payer's staff or for any purpose other than that of the payer's business, if the VAT on such assets is wholly or partly deductible

### C. Who is liable

A taxable person is any business entity or individual that independently performs any economic activity regardless of the purpose and results of such activity.

The VAT registration threshold for taxable persons that have their seat, place of business or a fixed establishment in the Slovak Republic (Slovak taxable persons) is a turnover of €49,790 measured in a maximum period of 12 consecutive calendar months. A Slovak taxable person whose turnover equals or exceeds the registration threshold must file a VAT registration application by the 20th day of the month following the month in which the threshold is reached.

For the above purposes, turnover includes revenues (income), excluding tax, from all supplies of goods and services (both taxable and zero-rated) made in the Slovak Republic. Revenue (income) generated from supplies that are exempt from VAT without input deduction (see Section D) is generally excluded from turnover for the above purposes. However, revenue (income) from insurance and financial services is included if these services are not provided as ancillary to the main taxable supply. Revenue (income) from the occasional sale of tangible property (except inventory) and intangible property is excluded from the definition of taxable turnover.

Legal entities that carry out activities jointly under an association agreement (or a similar agreement) and that have aggregate turnover exceeding the registration threshold must register for VAT individually. Transactions between such entities remain subject to VAT.

**Intra-Community acquisitions.** The VAT registration threshold for Slovak taxable persons and for Slovak nontaxable legal persons that acquire goods in the Slovak Republic from other EU member states is a value of €13,941.45 of goods acquired in a calendar year. This type of VAT registration does not confer on the person the status of a VAT payer (that is, no input VAT deduction is possible). It only serves the purpose of allowing the person to pay the VAT due on the goods acquired. Registration is required before achieving the threshold.

**Group registration.** VAT grouping allows financially, economically and organizationally linked domestic taxable persons (including fixed establishments of foreign entities) to form a

single taxable person. The VAT group is assigned a single VAT identification number. Supplies between the members of the VAT group are outside the scope of VAT. However, records of such supplies must be maintained for VAT purposes.

The Slovak VAT group registration becomes effective on 1 January if the group VAT registration application is filed by 31 October of the preceding calendar year.

**Nonestablished businesses.** A “nonestablished business” is a foreign business that has no seat, place of business, fixed establishment, residence or habitual abode in the Slovak Republic.

A fixed establishment of a foreign entity in the Slovak Republic is a permanent place of business that has both human and technical resources necessary for performing the business activities of the foreign entity. The registration of a branch in the Slovak Commercial Register does not automatically make the branch meet the fixed establishment criteria.

A nonestablished business must register for VAT in the Slovak Republic before it begins to perform activities that are within the scope of Slovak VAT, unless it makes any of the following supplies of goods or services in the country:

- Certain zero-rated transport services and zero-rated services ancillary to transport services
- Goods and services subject to the reverse-charge by the recipient
- Goods transported to other EU member states if the goods have previously been imported from a third country and the foreign person has appointed an import VAT representative in the Slovak Republic
- Goods supplied within a triangular transaction if the nonestablished business acts as middle party to the transaction (see the chapter on the EU, page 208)
- Gas and electricity supplies, if the recipient of the goods is required to pay VAT

VAT registration is carried out at the following designated office:

Tax Authority Bratislava I  
 (Danovy urad Bratislava I)  
 Radlinskeho 37  
 P.O. Box 89  
 817 89 Bratislava  
 Slovak Republic

**Call-off stock simplification.** A simplification rule applies in the Slovak Republic for intra-Community supplies of goods treated as “call-off” stock. These are goods held in a warehouse that remain in the ownership of the supplier until they are “called off” by the purchaser (see the chapter on the EU, page 208). The simplification rule applies for a supply of goods from another EU member state if the following conditions are satisfied:

- The goods are transferred into a warehouse in the Slovak Republic by a supplier registered for VAT in the other EU member state (and not registered for VAT in the Slovak Republic, unless specific conditions are met) or on the supplier’s behalf.
- They are sold to a single specific customer that is a Slovak taxable person.

In these circumstances, the Slovak customer is liable to pay VAT on the intra-Community acquisition of the goods. The foreign supplier is not liable for VAT. The foreign supplier is not required to register for VAT in the Slovak Republic. To apply the simplification rule, before the first supply is made, the tax authorities must receive a written notification confirming that the recipient is liable to VAT from the recipient of the goods.

**Import VAT representative.** A foreign entity may appoint a VAT representative for the purposes of making importations of goods that are to be treated as exempt from VAT on the basis of their subsequent intra-Community supply (that is, a zero-rated resale to another EU member state) by the foreign entity. The foreign entity must appoint the representative using a power of attorney. The VAT representative must submit tax returns on a calendar quarterly basis as well as monthly or quarterly EU Sales Lists on behalf of the importers. The importer of goods is not required to register for VAT purposes in the Slovak Republic.

**Reverse-charge services.** A Slovak taxable person must apply VAT with respect to services provided from another EU member state or a third country if the following conditions are satisfied:

- The services are taxable and the place of supply of the services is in the Slovak Republic
- The supplier is not the person liable to pay the VAT

VAT is accounted for using the reverse-charge mechanism; the recipient of the service must account for VAT on the service, but is also entitled to recover the self-assessed VAT if certain conditions are met (see Sections D and F).

A Slovak taxable person is generally not required to apply the reverse charge if the service provider is registered for VAT in the Slovak Republic (in that case the service provider must account for the Slovak VAT due). However, the reverse charge applies if a taxable person or an entity that is not a taxable person and that is identified for VAT as a result of intra-Community acquisitions receives services supplied by a foreign person from another EU member state or a non-EU country and if the place of supply is in the Slovak Republic as a result of the recipient's seat, place of business or fixed establishment (if the service is attributable to the fixed establishment). In such circumstances, the reverse charge applies regardless of whether the service provider is registered for VAT in the Slovak Republic. If these services are provided to nontaxable legal persons or to individuals, the country where the supplier is established is considered to be the place of supply for the services.

The person liable to VAT with respect to goods and services with installation and assembly supplied by foreign persons (from EU and third countries) to taxable persons established in the Slovak Republic is the recipient of the goods and services, regardless of whether the supplier (foreign person) is registered for VAT in the Slovak Republic.

**Local reverse-charge goods.** A Slovak VAT payer that purchases the following goods must apply the reverse charge regardless of whether the supplier is registered for VAT in the Slovak Republic:

- Gold in the form of raw material semifinished product or investment gold
- Metal waste and scrap metal

As a result, the reverse-charge mechanism also applies to local supplies of the above goods.

**Reverse charge on importation.** If the current rules remain in effect, beginning on 1 January 2013, the reverse charge will also apply to the importation of goods into the Slovak Republic if certain conditions stipulated by the law are met.

#### **D. VAT rates**

Effective from 1 January 2011, the standard VAT rate of 19% is temporarily increased to 20% until the public finance deficit is less than 3%.

Effective from 1 January 2007, the Slovak Republic introduced a reduced rate of 10% on selected pharmaceutical products and medical aids. Effective from 1 January 2008, the reduced rate also applies to specific books, brochures and leaflets and books for children. The standard VAT rate applies to all other supplies of goods or services, unless a specific measure in the VAT law provides for the zero rate or an exemption.

In the event of a change of VAT rates, taxpayers must use the VAT rates valid on the date on which the tax point arises.

The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F). If supplies are classified as zero-rated, no VAT is chargeable, but the supplier may deduct related input tax. The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

Postal services

Healthcare (except for supplies of pharmaceuticals and health aids)

Public radio and television broadcasting (except for broadcasting of commercials and sponsored programs)

Education

Financial services

Services related to sports and physical education

Cultural services

Social welfare

Lotteries and similar games

Transfer and lease of real estate (options to tax available for both)

Insurance and reinsurance services (including public social and health insurance)

Services provided by a legal person to its members (if certain conditions are met)

##### **Examples of zero-rated supplies of goods and services**

Exported goods

Intra-Community supplies of goods

Services related to the export of goods

International transport of persons

Financial and insurance services provided to a customer that is not established in the EU

## E. Time of supply

The time when VAT becomes due is called the “chargeability of tax” or “tax point.” In the Slovak Republic, VAT generally becomes chargeable on the date on which goods are supplied or services are performed.

Under the general rule, the tax point for goods or services is the date of the supply of the goods or services, or the date of the receipt of the payment, whichever is earlier. The date of supply of goods is the date of acquisition of the right to dispose of the goods as owner.

**Continuous supplies of goods and services.** If goods or services are supplied in parts or repeatedly, the goods or services are considered to be supplied on the last day of the period to which the payment for the goods or services relates.

If a payment for partial or repeated supplies of goods or services is agreed to for a period exceeding 12 calendar months, the tax point arises on the last day of the 12th month, until the supply of goods or services is finished.

A special rule applies if the following circumstances exist:

- A service is supplied partially or repeatedly during a period exceeding 12 calendar months and the agreed payment is for a period exceeding 12 calendar months.
- The service is supplied to a taxable person acting as such.
- The place of supply is in the Slovak Republic.
- The person required to pay VAT is the recipient of the service.

In the circumstances mentioned above, the tax point arises on 31 December of each calendar year, until the supply of such service is finished.

Specific rules also apply to partial or repeated supplies of leases of immovable property and partial or repeated supplies of electronic communication networks and electronic communication services.

**Intra-Community supplies and acquisitions of goods.** The tax point for goods that are supplied to another EU member state and that meet the conditions for exemption from VAT in the Slovak Republic is either the date of the issuance of the invoice or the 15th day of the calendar month following the month in which the goods are supplied, whichever is earlier.

For intra-Community acquisitions, the tax point is either the date of the issuance of the invoice or the 15th day of the calendar month following the month in which the goods are acquired, whichever is earlier.

**Reverse-charge services received.** For reverse-charge services received by a Slovak taxable person, VAT becomes chargeable on the date of supply of the service. Different rules apply to reverse-charge services supplied in parts or repeatedly (see *Continuous supplies of goods and services*).

**Immovable property.** The tax point for a transfer of real estate is the date on which the transfer of the property is registered in the

Real Estate Cadastre or the date on which the property is made available for use to the purchaser, whichever is earlier. The tax point for the supply of a newly constructed building is the date of the handing over of the building.

**Imported goods.** The tax point for imported goods is when the customs authority accepts the customs declaration for the release of the goods into a customs regime triggering the payment of VAT. If this is not applicable, the tax point is when the liability to customs duties (including import VAT) arises in a different manner.

## F. Recovery of VAT by taxable persons

A VAT payer is entitled to recover input tax, which is the VAT charged on goods and services received if it is directly attributable to the taxable person's own supplies for which a deduction entitlement exists (mostly taxable and zero-rated supplies).

Input VAT may generally be recovered by deducting it from output VAT, which is VAT charged on the supplies made. A VAT payer is entitled to deduct input VAT if the tax point for the supply in question has arisen with respect to the output and the VAT payer holds a valid VAT invoice or import document. The VAT payer may deduct input VAT in any VAT period after the VAT period in which the right to deduct arose up to the end of the calendar year (the financial year, if applicable). The VAT payer must possess the required documents (invoice, import declaration and other documents) by the time of the deadline for submission of the VAT return for that period. If the documents are not available until the end of the calendar (financial) year, the deduction must be made for the period in which the documents are received.

Input VAT relating to certain transactions may be deducted in the tax period in which the tax is chargeable or in the last VAT period of the calendar (financial) year in which the right to VAT deduction arose, at the latest. These transactions include the following:

- Reverse-charge services
- Goods supplied with assembly and installation by a foreign taxable person

For the above supplies, it is not necessary to hold an invoice, but the VAT payer must include them in its VAT records.

For imported goods, VAT must have been paid to the customs authority or, effective from 1 January 2013, included in the VAT records to be eligible for deduction.

**Nondeductible input tax.** A VAT payer may not recover the following input VAT:

- VAT that relates to activities that are not business activities
- VAT that relates to transactions regarded as VAT-exempt supplies
- VAT incurred on items of expenditure for which recovery is specifically excluded (for example, input tax related to amusement and entertainment)

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Purchase, lease or hire of passenger cars and accessories, if the purchase, lease or hire agreement was entered into before 31 December 2009 and if the car was supplied to the customer before 31 December 2009

Business entertainment

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

Purchase, lease or hire of vans and trucks

Taxis

Hotel accommodation

Fuel used for business purposes

Business use of mobile telephones

Business gifts that are worth less than €16.60 each (not taxed on output)

Commercial samples of goods for advertising purposes (not taxed on output)

Parking

**Partial recovery (partial exemption).** Input tax on goods that are used for both business and for nonbusiness purposes is generally deductible. However, output VAT must be paid on the nonbusiness use.

For fixed tangible assets intended to be used for both business and nonbusiness purposes, the VAT payer may opt not to deduct a portion of the input VAT that reflects the nonbusiness use of these assets. As a result, the use of these assets for nonbusiness purposes is not subject to VAT.

Effective from 1 January 2011, the above-mentioned option applies only to movable tangible assets with an acquisition price exceeding €3,319.39 (without VAT) and a useful life over one year. For immovable assets, the taxpayer needs to determine the proportion of use of the immovable asset for its business and nonbusiness purposes and deduct the input VAT only to the extent of the business use (for further details, see *Capital goods*).

For services received by a taxable person that are intended to be used for both business and nonbusiness purposes, the VAT payer may not deduct VAT relating to nonbusiness use. However, if the VAT payer does not expect to use the services for nonbusiness purposes, it may deduct input VAT relating to the entire consideration for the services. If the services are subsequently used for nonbusiness purposes, the VAT payer must account for output VAT (VAT on sales) on the portion of the consideration that is attributable to the nonbusiness use of the services.

For goods and services that are partially used for the provision of exempt supplies, only the portion of VAT related to taxable supplies may be deducted. For these purposes, taxable supplies include zero-rated supplies, and supplies that are specifically excluded from the application of VAT and that have entitlement to input VAT deduction.

The deductible proportion is calculated based on the total revenue (or income) generated from taxable supplies made (those for which the input tax is deductible), divided by the total revenue (or



income) from all supplies made. All values are exclusive of VAT. Because the terms “revenue” and “income” are not defined for VAT purposes, they should probably be understood in terms of their definitions for accounting purposes. “Revenue” is the term used for double-entry bookkeeping, while “income” is the term used for single-entry bookkeeping.

The following taxable supplies are excluded from the calculation of the deductible proportion:

- Incidental financial services exempt from VAT
- The sale of an enterprise or part of an enterprise (transfer of going concern)
- The sale of business assets (capital goods) excluding inventory
- Incidental real estate transactions (transfer or leasing of immovable property)

The deductible proportion is calculated for the entire calendar (financial) year and is rounded up to the nearest whole percentage. During the current calendar (financial) year, the deductible proportion calculated for the preceding year is used. If no percentage exists for the preceding year, the VAT payer may use a percentage agreed to with the tax authorities.

**Capital goods.** Effective from 1 January 2011, with respect to the purchase of immovable property to be used for both business and nonbusiness purposes, the input VAT is deductible only to the extent that the property is used for business purposes. If the nonbusiness use of the immovable property changes over a period of 20 years, a special Capital Goods Adjustment Scheme applies. This rule applies to immovable property acquired on or after 1 January 2011.

In addition, effective from 1 January 2011, the previously valid 10-year period for the adjustment of deducted input VAT relating to immovable property is extended to 20 years. Under transitional provisions, the 10-year period applies to immovable property that was subject to the adjustment of input VAT deduction in the period from 2004 to 2010, regardless of when the property was acquired. Consequently, the extended 20-year period also applies to immovable property acquired before 1 January 2011 that was not subject to adjustment of the VAT deduction in the period from 2004 to 2010. Taxpayers must retain documentation relating to affected immovable property for a period of 20 years.

**Refunds.** If the amount of deductible VAT in a VAT period exceeds the amount of output VAT in that tax period, the VAT payer may offset the difference against a VAT liability in the following tax period. The remaining difference between the amount of deductible VAT and output VAT that cannot be offset is refunded to a VAT payer by the tax authorities within 30 days after the date of the submission of a VAT return for the following tax period.

VAT payers may request the refund of excess VAT in a shorter period, which is 30 days after the deadline for submission of the VAT return for the VAT period in which excess VAT was reported, if the following conditions are met:

- The VAT payer is a monthly VAT payer.
- The VAT payer was registered for VAT purposes for at least 12 months before the month in which the excess VAT was reported.

- The VAT payer is not liable for underpayments of other taxes, customs duties and mandatory social and health insurance over the 12-month period preceding the month in which the excess VAT was reported.

Effective from 1 January 2012, if in the period for refund of excess VAT, the tax authorities deliver an appeal (letter) prompting the removal of defects in the submitted VAT return, the period for refund of excess VAT is interrupted from the day of delivery until the day on which the defects are removed. If the taxpayer generates or increases an amount of excess VAT through the filing of a supplementary VAT return, the tax authorities must refund the respective amount within 30 days after the submission of the supplementary VAT return.

If the tax authorities carry out a tax audit to verify the VAT payer's entitlement to a refund, the refund must be repaid within 10 days after the tax authorities complete the tax audit.

In addition, effective from 1 January 2012, if the excess VAT is refunded in a shorter period (mentioned above) based on a VAT return containing incorrect data, the tax authorities impose a penalty amounting to 1.3% of the excess VAT refunded.

### **G. Recovery of VAT by nonestablished businesses**

The Slovak Republic refunds VAT incurred by businesses that are neither established nor registered for VAT there.

The rules for VAT refunds in the Slovak Republic are in compliance with the general VAT refund rules adopted by Council Directive 2008/9/EC, which is part of the 2008 VAT package adopted by the European Commission (see the chapter on the EU, page 208).

In the Slovak Republic, the conditions for refunds are similar for EU businesses and non-EU applicants, except for the electronic request for refund and electronic communication applicable to EU business applicants. Non-EU business applicants must file the refund request using the form issued by the Slovak tax authorities.

To claim a refund, a foreign business must meet all of the following requirements:

- It is a registered VAT payer abroad or a registered payer of a similar general consumption tax.
- The foreign entity does not have a registered office, fixed establishment or place of business in the Slovak Republic (for non-EU applicants, the territory of the EU is applicable), during the period for which the VAT refund is requested.
- The input VAT is recoverable under Slovak law.
- During the period for which the VAT refund is requested, the foreign entity neither sold goods nor provided services in the Slovak Republic, other than the following:
  - Transportation and auxiliary services related to export and import of goods.
  - Services and goods with their assembly and installation, if the Slovak customer was the person liable to pay tax (reverse charge).
  - Electricity and gas if the Slovak customer was the person liable to pay tax.

- Goods supplied to other EU member states if such goods were imported in the Slovak Republic as VAT-exempt and if the foreign entity was represented by an import VAT representative (see Section C).
- Goods supplied within a triangular transaction if the foreign business acts as the middle party in the transaction (see the chapter on the EU, page 208).

The Slovak tax authorities reject the application for a refund if the country in which the applicant's foreign business is registered does not provide VAT refunds to Slovak VAT payers (or refunds of a similar consumption tax in the case of non-EU countries only).

**Refund application.** The refund application for EU applicants must comply with the rules contained in Council Directive 2008/9/EC. Under the directive, applicants must file the electronic request in the EU member state in which they have their seat, place of business, fixed establishment, residence or habitual abode.

The non-EU business application must be submitted using the form issued by the Slovak tax authorities, completed in the Slovak language.

Requests of non-EU applicants must be filed with the Tax Authority Bratislava 1 by 30 June of the year following the year in which the VAT was incurred or the import VAT was paid. The request must be filed together with the following documents:

- The original invoices or import documents (for imports, documents evidencing payment of the tax must also be included)
- A certificate of status issued by the applicant's local tax authority confirming that the applicant is registered for VAT in the country where it is established or has its permanent address

An annual claim may be filed if total VAT incurred exceeds €50 for the calendar year. Tax Authority Bratislava 1 must decide on the application for the refund within six months after the date of the filing of the request.

## H. Invoicing

**VAT invoices.** A registered VAT payer must issue a VAT invoice for all taxable supplies provided to a taxable person or to a non-taxable legal person no later than 15 days after the date the tax was chargeable (usually the date of supply of goods or services or the date on which the advance payment is received). The VAT payer is not required to issue the VAT invoice for domestic supplies that are exempt from VAT. The VAT Act also allows the issue of simplified VAT invoices, such as till receipts or cash-register bills, if certain conditions are met.

A registered taxpayer must issue an invoice for supplies of goods and services made to another EU member state, under certain conditions (see the chapter on the EU, page 208).

An invoice issued by a member of a VAT group must contain identification details of the group member and the VAT number of the group.

It is necessary to hold a VAT invoice to support a claim for input tax deduction (with the exception of reverse-charge services received from abroad and purchases from abroad of reverse-charge goods supplied with installation or assembly).

The law also allows the sending or accessing of invoices electronically after the agreement of the supplier with the customer.

**Corrective invoices.** If the tax base is corrected as a result of a decrease or increase in the price, the cancellation of all or part of a supply or the return of the goods, the VAT payer must issue a corrective invoice, credit note or debit note. This is a VAT document used for the correction of the taxable amount. Each tax document correcting the original invoice is considered to be a VAT invoice.

A credit note or debit note must contain the serial number of the original VAT document.

**Proof of exports and intra-Community supplies.** Goods exported outside the EU or supplied to a taxable person in another EU member state are zero-rated for a VAT payer that sells to a foreign entity or to a foreign branch of a Slovak entity. A VAT payer that exports goods or supplies goods to other EU member states is generally entitled to recover the related input VAT.

To qualify as VAT-free, exports must be supported by evidence confirming that goods were exported abroad. A VAT payer must substantiate the export of the goods with the following:

- Electronic customs declaration for the release of the goods into the customs regime of export that is certified by a customs authority. The VAT payer must hold the electronic customs declaration for six months after the month in which the exemption is claimed.
- A transport document.

To qualify for exemption, an intra-Community supply of goods must be supported by the following documents (see the chapter on the EU, page 208):

- Transport document or other document on the dispatch of goods in which the place of destination is stated, if the transport is arranged by the supplier or the customer through a third entity
- Written confirmation of the receipt of goods by the customer or by a person empowered by him, if the transport is performed by the supplier
- Written declaration of the customer or a person empowered by him that the goods were transported to another EU member state, if the transport is performed by the customer
- Other documents, including, but not limited to, the contract on the supply of goods, and the delivery note or other document confirming receipt of payment for the goods

If the transport of goods is performed by the customer or on its behalf, the VAT payer must obtain the supporting documentation within six months after the end of the month in which the goods are dispatched or transported to another EU country.

**Foreign-currency invoices.** If the payment for a taxable supply is requested in a foreign currency, the total VAT must be converted into euros (€), using the exchange rate published by the European Central Bank on the date preceding the date of the tax point. Alternatively, the VAT payer can opt for a customs foreign exchange rate valid on the date of the tax point to be used over a calendar month. This option may not be revoked during the entire calendar year. For imports, the customs foreign-exchange rate rules apply.

## I. VAT returns and payment

Slovak VAT returns must be submitted by the 25th day after the end of the tax period. Effective from 1 January 2012, VAT returns and all documents for the tax authorities must be submitted electronically, using either advanced electronic signature or other means of electronic filing agreed with the tax authority. Payment of VAT liability in full is due by the same date.

**Penalties.** As the result of extensive revisions to the law providing rules for tax administration, the system of penalties in the Slovak Republic is changed, effective from 1 April 2012.

Under the revised law, the penalties for noncompliance with the VAT registration range from €60 to €20,000. The penalties for noncompliance with the reporting requirements range from €30 to €3,000. The penalty for the late submission of a tax return (after the statutory deadline) ranges from €30 to €16,000. If the taxpayer does not submit the tax return by the deadline stipulated by the tax authorities in an appeal, the penalty for late filing ranges from €60 to €32,000.

Interest on late payment applies in the following circumstances:

- The VAT liability is not paid by the deadline.
- The proper amount of the VAT liability or the amount stipulated in a decision of the tax authorities is not paid.

The rate of interest on late payment is calculated as the higher of the annual interest rate of 15% or four times the interest rate for main refinancing operations (the basic interest rate) of the European Central Bank.

A flat penalty is imposed if the VAT liability or excess VAT refund declared by the VAT payer in the tax return is different from the amount assessed by the tax authorities. This penalty is calculated by applying to the assessment base the higher of the annual interest rate of 10% or three times the basic interest rate of the European Central Bank. The penalty is calculated on the difference between the value declared in the tax return and VAT assessed by the tax authorities. It is not based on the time period involved.

If the difference is declared by the VAT payer in a supplementary VAT return, the flat penalty is calculated based on halved percentages, which is the higher of the annual interest rate of 5% or 1.5 times the basic interest rate of the European Central Bank.

Penalties also apply to late submission of EU reports (see Section J).

Intentional tax evasion may be regarded as a criminal offense, resulting in fines or imprisonment for a term of up to 12 years, depending on the amount of tax evaded.

## J. EU declarations

**INTRASTAT.** A Slovak taxable person that trades with other EU member states must complete statistical reports, known as INTRASTAT, if the value of goods dispatched or received exceeds certain thresholds. The following INTRASTAT turnover thresholds apply:

- The exemption threshold
- The simplification threshold

Separate reports are required for intra-Community acquisitions (INTRASTAT Arrivals) and for intra-Community supplies (INTRASTAT Dispatches).

INTRASTAT information is reported each calendar month (the reference period). Each report must be submitted to the local customs authority by the 15th day of the month following the reference period.

*Exemption threshold.* For 2012, the exemption threshold is €200,000 for Arrivals and €400,000 for Dispatches. If a VAT payer's turnover for the preceding calendar year did not exceed these thresholds, it was not required to submit an INTRASTAT report.

*Simplification threshold.* For 2012, the simplification threshold is €600,000 for Arrivals and €1,700,000 for Dispatches. If the VAT payer's turnover did not exceed these thresholds (but has exceeded the exemption threshold), the VAT payer was required to report the 10 most important sub-items of the combined nomenclature only; other sub-items may be summarized in a single item. If the VAT payer exceeds the simplification threshold, it is required to complete a full INTRASTAT report.

If the VAT payer does not exceed the exemption threshold or if the entity is not a Slovak VAT payer, it is not required to report the intra-Community movement of goods using INTRASTAT. Eligible VAT payers are required to complete and submit INTRASTAT declarations for months in which zero movements of goods occur.

A penalty may be imposed for late submission or for missing or inaccurate declarations, up to €3,320.

**EU Sales Lists.** A Slovak VAT payer must submit an EU Sales List (ESL) reporting the following transactions:

- Intra-Community supplies of goods
- VAT-exempt relocations of goods to the EU member states (see the chapter on the EU, page 208)
- Supplies of goods within a triangular transaction if the VAT payer acts as first customer
- Supplies of services with the place of supply in another EU member state to a taxable person or an entity that is not a taxable person but is identified for VAT, for which the recipient is liable to pay the VAT

Services exempt from VAT under the law of the place of supply of the services are not reported in ESLs. ESLs must be submitted on a monthly basis by the 20th day following the end of the respective calendar month. If the value of goods supplied during the calendar quarter does not exceed €100,000 and if the value of goods supplied during the preceding four calendar quarters did not exceed €100,000, the VAT payer can file quarterly ESLs instead of monthly ESLs by the 20th day following the end of the calendar quarter.

The Slovak law requires submission of the ESLs via electronic means.

Effective from 1 January 2012, if a VAT payer fails to submit an ESL within the statutory deadline, a penalty for noncompliance

with nonmonetary obligations ranging from €60 to €3,000 applies. In the event of a failure to submit an ESL after receiving a request from the tax authorities, the penalty may be imposed repeatedly. Because the amount of the penalty for noncompliance with nonmonetary obligations depends on the seriousness, duration and consequences of the breach of obligations, the penalty for failing to submit the ESL should generally fall in the lower third of the range.

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## Slovenia

(Country code 386)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Davek na dodano vrednost (DDV)
Date introduced	1 July 1999
European Union (EU) member state	Yes (effective from 1 May 2004)
Administered by	Ministry of Finance (Tax Administration) ( <a href="http://www.durs.gov.si">http://www.durs.gov.si</a> )
VAT rates	
Standard	20%
Reduced	8.5%
Other	Zero-rated and exempt
VAT number format	SI12345678
VAT return periods	
Businesses established in Slovenia	Monthly or quarterly (see Section I)
Businesses not established in Slovenia	Monthly
Thresholds	
Registration	
Businesses established in Slovenia	€25,000 in the preceding 12 months
Businesses not established in Slovenia	None
Cadastral income from agricultural and forestry	

land for agricultural and forestry activities	€7,500
Distance selling	€35,000
Intra-Community acquisitions	None
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Slovenia by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person
- Reverse-charge services received by a taxable person in Slovenia
- The importation of goods from outside the EU, regardless of the status of the importer

Special rules apply to intra-Community transactions involving new means of transport and distance sales (see the chapter on the EU, page 208).

## C. Who is liable

A taxable person is any person who independently carries out in any place any economic activity, regardless of the purpose or results of that activity.

VAT registration is required before the beginning of taxable activities in Slovenia. Under the VAT law, retrospective VAT registration is not possible.

**Group registration.** VAT group registration is not allowed under the VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have an establishment in Slovenia. A non-established business that makes supplies of goods or services in Slovenia is liable to account for VAT on these supplies.

Consequently, nonestablished businesses must register for VAT if they make any of the following supplies:

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

**Tax representatives.** A foreign entity (taxable person) that does not have a registered business or fixed establishment in Slovenia may appoint a tax representative. Individuals and legal entities that are taxable persons in Slovenia can be appointed as tax representatives if they have an establishment or permanent address in Slovenia and are not a branch of a company.

A foreign entity (taxable person) that has its seat outside the EU must appoint a tax representative.



**Reverse charge.** The reverse charge applies to supplies of most services made by nonestablished businesses to taxable persons registered for VAT in Slovenia. The recipient of the services accounts for VAT using the appropriate Slovenian VAT rate. If the reverse charge applies, the nonestablished supplier is not required to register for VAT in Slovenia.

The following are services to which the reverse charge does not apply:

- Real estate
- Transport
- Restaurant and catering services
- Cultural, artistic, scientific, educational, sporting, entertainment or similar services
- Ancillary transport services
- Valuations of movable tangible property or work on such property
- Short-term rentals of vehicles

Slovenia applies a domestic reverse-charge mechanism for certain supplies and services. However, this domestic reverse-charge mechanism does not prevent a foreign supplier from registering locally for VAT purposes. The following activities fall within the scope of the domestic reverse charge:

- Certain supplies and services falling in Category F of the Slovenian Standard Classification of Activities and the erection of montage houses
- Hiring out of staff used for activities falling in Category F of the Slovenian Standard Classification of Activities
- Supplies of real estate for which the parties opt for VAT taxation
- Supplies of used material waste and scrap (special listed goods)
- Trade of greenhouse gas emissions

**Late-registration penalties.** A penalty may be imposed for late registration or failure to register for VAT in Slovenia and for late filing or failure to file VAT returns. Penalties vary from €2,000 to €125,000. For late payment or nonpayment of VAT, a penalty ranging between €2,000 and €125,000 may be imposed. In addition, interest for late payment is charged at a daily rate of 0.0247%. Penalties ranging from €200 to €4,100 may be imposed on the responsible person of the legal entity who commits an offense, in addition to the company itself.

#### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to any rate of VAT, including supplies that are exempt with the right to deduct input VAT. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to the right to input tax deduction (see Section F). Some supplies are classified as “exempt with the right to deduct input VAT,” which means that no VAT is chargeable, but the supplier may recover related input tax. “Exempt with the right to deduct input VAT” supplies include exports of goods outside the EU and related services and intra-Community supplies of goods and intangible services supplied to another taxable person established in the EU or to a recipient outside the EU (see the chapter on the EU, page 208).

In Slovenia, the following are the VAT rates:

- Standard rate: 20%
- Reduced rate: 8.5%

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Real estate transactions (except “new buildings”)

Financial services

Insurance transactions

Betting, gambling and lotteries

Public radio and television broadcasts

Education

Healthcare and medical services

Cultural services

#### **Examples of goods and services taxable at 8.5%**

Foodstuffs (except alcoholic drinks and catering services)

Water supplies

Passenger transport

Books, newspapers and periodicals

Services of authors and composers

Agricultural products and services

Pharmaceutical products and medical equipment

Cultural events

Hotel accommodation

Use of sports facilities

Services of undertakers and ceremonial services

### **E. Time of supply**

The time when VAT becomes due is called the “chargeable event” or “tax point.” The following are the general rules in Slovenia for determining the chargeable event:

- VAT is due when goods are delivered or when services are performed.
- If no invoice is issued for supplied goods or services, VAT is due on the last day of the tax period (month) in which the goods are delivered or the services are performed.

**Prepayments.** If payment is made before the supply is made (prepayment), VAT is due on the day on which the prepayment is received. For intra-Community acquisitions or supplies of goods, prepayments do not create a tax point.

**Intra-Community acquisitions.** For intra-Community acquisitions of goods, VAT is due on the 15th day of the month following the month in which the goods are delivered. If an invoice for the supply is issued before this date, VAT is due on the date of the invoice.

**Imported goods.** VAT for imported goods becomes due when the import is made or when the goods leave the duty suspension regime and are released for free circulation.

**Cash accounting for small businesses.** A domestic taxable person whose taxable turnover (excluding VAT and sales of assets) did not exceed €208,000 in the previous 12 months and whose turnover is not expected to exceed this limit in the next 12 months, may, under certain conditions, charge and pay VAT on a cash basis; that is, on the basis of payments received for its supplies of goods and services. A taxpayer that uses the cash accounting scheme may deduct input tax on its purchases only when the VAT is fully paid. For related companies, the turnover threshold applies to the whole group.

**Bad debts.** If a taxable person has deducted input VAT on a purchase but has not paid its supplier or has not settled its debt to the supplier on time, an adjustment is due. The taxable person making the purchase must increase its tax liability for the amount of previously deducted input VAT in the period in which the delay occurs. A supplier that has suffered a bad debt must reduce the taxable amount and the output VAT amount due for the supply. The supplier is not required to await confirmation from the purchaser that the purchaser has corrected the previously deducted input VAT (or confirmed that it has not yet deducted the input VAT on the initial invoice) before reducing the output VAT. The supplier need only inform the purchaser in writing of the amount of input VAT that cannot be deducted. The tax base may be reduced in the period in which the notification is sent to the purchaser.

## F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in Slovenia, VAT paid on imports of goods and self-assessed VAT on intra-Community acquisitions of goods and reverse-charge services (see the chapter on the EU, page 208).

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

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Hospitality costs (accommodation, food and drinks, and entertainment)

Purchase, lease, fuel and maintenance of cars and boats (except if used by driving schools or for public transportation)

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

Advertising

Purchase, lease, fuel and maintenance of buses and trucks

Telephones

Books and newspapers

Attendance at seminars (except food and drinks)

Raw materials

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

Input tax directly relating to taxable supplies is fully recoverable, while input tax directly relating to exempt supplies is not recoverable.

To determine the amount of input VAT that may be recovered one of the following methods may be used:

- Deduction of input VAT using actual data, provided that the taxable person maintains (in its books of account or other records) information regarding the total amount of input VAT including the amount of input VAT that is deductible.
- Determination of the amount of deductible input VAT using a pro rata method for the whole business, if the taxable person is unable to determine the amount of input VAT as described above.
- Determination of the amount of deductible input VAT using several deductible amounts for each of its various fields of business activity separately. A “field of business activity” is any level of activity of the taxable person according to a standard classification of activities or organizational units of the taxable person (such as a separate plant or business unit).

Under the pro rata method, the total annual supplies on which input VAT is deductible exclusive of VAT is divided by total annual supplies on which VAT is not deductible including state subsidies and grants.

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

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

- Real estate: adjusted for a period of 20 years
- Other tangible fixed assets: adjusted for a period of five years

**Refunds.** If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that same period, the taxable person has an input tax credit. An input tax credit is carried forward to the following VAT tax period. However, a VAT-registered person is entitled to a refund of the input tax credit within 21 days after submitting a VAT return form for the tax period.

**Repayment interest.** The tax authorities pay interest on delayed repayments of VAT. The daily statutory rate of interest is 0.0247%.

## G. Recovery of VAT by nonestablished businesses

Slovenia refunds VAT incurred by businesses that are neither established nor registered for VAT in Slovenia. Nonestablished businesses may claim Slovenian VAT to the same extent as VAT-registered businesses.

Businesses established in the EU can submit a claim for refund with the tax authorities of their country of establishment. Businesses established outside the EU can claim a refund under the terms of the EU 13th Directive. Slovenia applies the condition of reciprocity with respect to refund claims. This may exclude applicants from some non-EU countries.

**Refund application.** For non-EU businesses, the deadline for refund claims is 30 June following the calendar year in which the tax was incurred. This deadline is strictly enforced.

EU businesses can make refund claims for Slovenian VAT in accordance with the procedure in their country of establishment.

Claims filed in Slovenia must be submitted in the Slovenian language. Applications for refund must be accompanied by the relevant documentation (see the chapter on the EU, page 208).

The minimum claim period is six months. The minimum claim for a period of less than a year is €400. The maximum period is one year. For an annual claim, the minimum amount is €50. The claim period can be shorter than six months if this period represents the rest of the calendar year.

The tax authorities must stamp each submitted invoice and import document and return them to the claimant within 30 days of receipt. The tax authorities must also rule on the claim within six months after the submission of the claim. If the claim is approved, the refund is processed within six months after the submission of the claim by either remitting payment into a Slovenian bank account or making a transfer abroad (the claimant is responsible for all expenses related to this repayment).

Applications for refunds of Slovenian VAT must be sent to the Ministry of Finance of Slovenia, Tax Administration, Ljubljana Tax Office, at the following address:

Davčni urad Ljubljana  
Davčna ulica 1  
1000 Ljubljana  
Slovenia

Effective from 1 July 2012, applications for refunds of Slovenian VAT by non-EU businesses must be filed with the Slovenian tax authorities in electronic form through their online portal.

## H. Invoicing

**VAT invoices and credit notes.** A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not required for a limited range of supplies, including the following:

- Supplies by taxpayers that perform agricultural or forestry activities and sell these products and services to final consumers
- The sale of tickets, season tickets and tokens for passenger transport (trains, buses and cable cars), stamps, court stamps, postal forms, payments for participating in games of chance, periodicals, vending machine sales, sale of mobile phone cards by ATM, GMS network and the Internet, sale of tokens from change machines and supplies of services at “teleservice points”

A VAT invoice is necessary to support a claim for input tax deduction or refund under the applicable EU Directive refund scheme (see the chapter on the EU, page 208).

If the taxable amount subsequently changes as a result of the return of goods or the granting of a discount, the tax base is lowered accordingly. The taxable person may adjust (reduce) the amount of VAT payable if it informs the recipient in writing (for example, by issuing a credit note) about the nondeductible amount. A credit note must contain all the information prescribed for an invoice including a reference to the invoice.

**Proof of exports and intra-Community supplies.** Slovenian VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Slovenia. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially certified by Customs. In certain cases, an invoice stamped by Customs, a mail freight declaration, or a transport document is acceptable.
- For an intra-Community supply, an invoice with the purchaser’s VAT identification number and corresponding transport document (or other suitable document that clearly refers to the freight of goods related to the invoice).

**Foreign-currency invoices.** Invoices may be issued in a foreign currency. The VAT amount must always be in euros (€). The exchange rate that must be used is the foreign exchange rate of the European Central Bank that is valid on the date on which the tax liability arises and that is published by the Bank of Slovenia.

## I. VAT returns and payment

**VAT returns.** Slovenian VAT returns are submitted for monthly or quarterly tax periods. Quarterly tax periods coincide with the months of March, June, September and December. A tax period for each taxable person is determined on the basis of its turnover in the preceding calendar year in accordance with the following rules:

- Taxable persons with turnover up to €210,000 submit quarterly tax returns, unless the taxable person engages in intra-Community transactions and is liable to submit a recapitulative statement (see Section J).
- Taxable persons with turnover greater than €210,000 submit monthly tax returns.

The tax period for newly established taxable persons is a calendar month for the first 12 months of business activity. The tax period for foreign taxable persons (nonestablished businesses) is always a calendar month.

VAT returns must be submitted and any VAT due must be paid in full by the last working day of the month following the end of each tax period. If the taxable person performs intra-Community supplies and must file a recapitulative statement (see Section J), the VAT return must be submitted by the 20th day of the month (or earlier if the 20th day is not a working day) following the reporting period (calendar month).

**Penalties.** Penalties are imposed for a range of VAT offenses. The following are the penalties:

- Late filing or nonfiling of a VAT return: a penalty ranging from €2,000 to €125,000
- Late payment or nonpayment of VAT: a penalty ranging from €2,000 to €125,000
- An offense committed by a responsible person of a taxable entity: a fine ranging from €200 to €4,100

**Interest.** Default interest is imposed for the late payment of VAT due. The daily statutory rate of default interest is 0.0247%.

**Criminal offenses.** The criminal offense of tax evasion is punishable by a term of imprisonment ranging from six months to eight years.

## J. EU declarations

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

For 2011, the threshold for INTRASTAT Arrivals is €120,000 and the threshold for INTRASTAT Dispatches is €200,000.

INTRASTAT returns must be submitted by the 15th day of the month following the reporting period (calendar month). If the 15th day is a nonworking day, the INTRASTAT return must be submitted by the last working day before the 15th day of the month.

INTRASTAT returns may be submitted in paper form, electronic format or via the Internet (<http://intrastat-surs.gov.si/>).

For a legal entity, a penalty of up to €1,250 may be imposed for late submission, failure to submit, or for inaccurate INTRASTAT declarations. In addition, a penalty of up to €125 may be imposed on a person responsible for the return.

**Recapitulative statements.** If a Slovenian taxable person performs intra-Community supplies or reverse-charge services that are taxable for VAT purposes in the other EU state in a tax period, it must submit a recapitulative statement to the Slovenian tax authorities. The recapitulative statement is not required for any periods in which the taxable person does not make any intra-Community supplies.

The recapitulative statement must be submitted monthly by the 20th day of the month (or earlier if the 20th day is not a working day) following the reporting period (calendar month).

Penalties ranging from €2,000 to €125,000 may be imposed for late submissions, failures to submit, or inaccurate recapitulative statements.

## South Africa

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	30 September 1991
European Union (EU) member state	No
Member of the Southern African Customs Union	Yes
Administered by	Commissioner for the South African Revenue Service (SARS) ( <a href="http://www.sars.gov.za">http://www.sars.gov.za</a> )
VAT rates	
Standard	14%
Other	Zero-rated and exempt
VAT number format	4220122222
VAT return periods	
Monthly	Annual taxable supplies in excess of R 30 million
Bimonthly	Annual taxable supplies of less than R 30 million
Four-monthly, six-monthly and annually	Special cases
Thresholds	
Compulsory registration	Annual taxable supplies of more than R 1 million
Voluntary registration	Annual taxable supplies from R 50,000 to R 1 million
Voluntary registration for certain vendors providing commercial accommodation	Annual taxable supplies exceeding R 60,000
Recovery of VAT by nonestablished businesses	Yes (in limited circumstances)



## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in South Africa by a registered person
- Reverse-charge services received by a person in South Africa that is not entitled to claim full input tax credits (referred to as imported services)
- The importation of goods from outside South Africa, regardless of the status of the importer

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

## C. Who is liable

**Goods and services supplied in South Africa.** A vendor is required to account for output tax on all goods and services supplied, unless the supply is specifically exempted by the Value-Added Tax Act.

A “vendor” (taxable person) is a person (business entity or individual) carrying on an activity in or partly in South Africa on a continuous or regular basis if, in the course of the activity, goods or services are supplied to another person for consideration exceeding the registration threshold. This includes persons who are registered for VAT in South Africa as well as persons who are required to register as vendors.

A person is required to register as a vendor if the value of taxable supplies exceeds (or is expected to exceed) R 1 million in any consecutive 12-month period.

**Voluntary registration.** A person whose turnover is below the compulsory registration threshold may register for VAT on a voluntary basis if the value of its taxable supplies exceeds R 50,000 in any 12-month period (excluding the provision of commercial accommodation, for which the threshold is R 60,000).

**Group registration.** VAT grouping is not allowed under the South African VAT law. All legal entities must register for VAT individually. VAT is charged on transactions between separately registered entities within a commercial group in accordance with the general VAT rules and subject to the rules relating to supplies between related persons.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in South Africa. A non-established business that makes taxable supplies of goods or services continuously or regularly in South Africa must appoint a tax representative and open a South African bank account to register for VAT. The VAT authorities may appoint any person as an agent for any other person to recover amounts due to the SARS.

**Deemed supplies.** In addition to actual goods and services supplied by a vendor, the VAT Act also deems certain supplies to be supplies of goods or services. The person making the deemed supply is liable to pay VAT. Deemed supplies include the following:

- Ceasing to be a vendor
- Short-term indemnity payments
- Change in use
- Excess payments not refunded within four months
- Group restructuring

**Imported goods.** Importers are liable to pay VAT on imported goods.

**Imported services.** Recipients of services are liable to pay VAT on imported services, subject to specific provisions. Imported services are exempt from VAT if the value of the supply does not exceed R 100.

## **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are subject to tax at either the standard rate (14%) or zero rate (0%). A vendor must account for VAT at the standard rate on all supplies of goods and services, unless the supply is specifically exempted or zero-rated under the VAT Act. The term “exempt supplies” refers to supplies of goods and services that are not subject to tax. A vendor is not entitled to claim a deduction on expenses incurred to make exempt supplies (see Section F).

The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Financial services, including Shari’a finance premiums  
Fare-paying passenger transport by road or rail  
Educational services  
Child care  
Donated goods supplied by certain nonprofit (charitable) bodies  
Rental of residential accommodation  
Immovable property located outside South Africa  
Goods imported and entered for storage in a licensed Customs and Excise storage warehouse by a nonestablished business, unless the nonestablished business applies in writing to SARS to have the supplies zero-rated

### **Examples of goods and services taxable at 0%**

Exports of goods and related services  
International transport of passengers and goods, and related services  
Certain supplies of goods that are used exclusively in an export country  
Services supplied outside South Africa and to foreign branches and head offices  
Certain basic foodstuffs  
Goods used for agricultural purposes  
Illuminating kerosene and leaded and unleaded gasoline  
Supply of gold coins issued by the Reserve Bank  
Supply of an enterprise capable of separate operation as a going concern (provided that all of the requirements are met)  
Supply of fuel levy goods and certain fuels obtained from crude to be refined to produce fuel levy products  
Receipt of certain grants

Supply of intellectual property for use outside South Africa  
 Supply of services to nonresidents subject to certain provisions  
 Triangular supplies (the vendor supplies goods to a nonresident but delivers them in South Africa; special requirements apply)

### **E. Time of supply**

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

In South Africa, the basic time of supply is the earlier of the issuance of an invoice or the receipt of payment.

Other tax points are used for a variety of situations, including betting transactions, construction supplies made from vending machines, and “lay-by” sale agreements.

**Supplies between related persons.** The tax point for supplies of goods between related persons is when the goods are removed by or made available to the purchaser or recipient of the goods. The time of supply for supplies of services between related persons is when the services are performed.

**Supplies to a branch or main business outside South Africa.** The tax point for goods consigned or delivered to a branch or main business outside South Africa is when the goods are actually consigned or delivered. The tax point for services supplied to a branch or main business outside South Africa is when the services are performed.

**Periodic supplies.** The tax point for periodic supplies is the earlier of the date on which payment is due or the date on which payment is received.

**Installment credit agreements.** For installment credit agreements, the supply is deemed to take place at the earlier of when the goods are delivered or any payment of consideration is made.

**Immovable property.** The supply of immovable property is deemed to take place at the earlier of the following dates:

- The date on which the registration of the transfer is made in a deeds registry
- The date on which payment is received

**Imported goods.** The tax point for imported goods varies depending on the source of the goods being imported. The following are the applicable rules:

- For goods that are imported from a Southern African Customs Union country: when the goods are brought into South Africa at the border post
- For goods imported from other countries: when the goods are cleared for home consumption
- For goods imported and entered into a licensed Customs and Excise storage warehouse: when the goods are cleared from the warehouse for home consumption

### **F. Recovery of VAT by taxable persons**

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

Input tax includes VAT charged on goods and services supplied in South Africa and VAT paid on the importation of goods.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for taxable purposes (for example, goods acquired for private use by an entrepreneur or services used for making exempt supplies). In addition, input tax may not be recovered for specifically excluded business expenditure, such as entertainment.

The following tables provide examples of deductible and nondeductible expense items (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Purchase or hire of a motor car (subject to certain exceptions)  
 Business and staff entertainment (subject to certain exceptions)  
 Business gifts (to the extent that the gift constitutes "entertainment," as defined)  
 Club subscriptions

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

Purchase, hire and maintenance of vans and trucks  
 Attendance at conferences and seminars  
 Vehicle maintenance costs (including motor cars)  
 Mobile phones  
 Air transport within South Africa  
 Aviation fuel  
 Trading stock  
 Raw materials  
 Marketing expenditure

**Partially deductible input tax (partial exemption).** Input tax directly related to the making of exempt supplies is not recoverable. If a taxable person makes both exempt and taxable supplies, it may recover only a portion of the input tax incurred.

In South Africa, the deductible portion is determined using the following two-stage calculation:

- The first stage identifies the input tax directly attributable to taxable and exempt supplies. Input tax directly attributable to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that cannot be directly attributed to the making of taxable or exempt supplies. Such input tax may be deducted only to the extent that it relates to the making of taxable supplies. In general, the deductible portion is determined by comparing the value of taxable supplies to total supplies. However, a vendor may apply to the SARS for another equitable apportionment method (for example, apportionment based on floor space or activity), particularly if significant investment income, foreign-exchange gains or other nontaxable passive income is realized.

**Refunds.** If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, a refund of the excess may be claimed.

The SARS pays interest at the prescribed rate if it does not pay the refund claimed within 21 business days after the date on which the VAT return is received by SARS. SARS is not liable for interest if the vendor did not provide bank account details, if the returns furnished were incomplete or defective in any material respect or if the return is being investigated.

### **G. Recovery of VAT by nonestablished businesses**

VAT incurred by businesses that are neither established nor registered in South Africa may be recovered only with respect to goods that are subsequently exported from South Africa. However, the goods must be exported from a designated port within 90 days after the invoice date. A refund may be claimed from the VAT refund administrator. No claim may be made with respect to services (such as hotel accommodation and restaurant meals) consumed in South Africa.

A business rendering services on a continuous or regular basis in South Africa may be liable to register as a VAT vendor even though the business is neither established nor registered in South Africa. In this instance, the nonestablished business registered as a vendor may recover input tax through the normal VAT return process.

### **H. Invoicing**

**VAT invoices and credit notes.** Vendors are required to issue a full tax invoice for all supplies made if the consideration (that is, the total amount received inclusive of VAT) amounts to R 3,000 or more. If the total amount in money for the supply is less than R 3,000, the supplier may issue an abridged tax invoice. Tax invoices may be issued electronically if the encryption meets SARS requirements and if the invoice recipients agree in writing to accept electronic invoices.

The following information is required for a full tax invoice:

- The words “tax invoice” in a prominent place
- The name, address and VAT registration number of the supplier
- The name, address and VAT registration number of the recipient
- An individual serialized number and the date on which the tax invoice was issued
- Full description of the goods or services supplied
- Quantity or volume of goods or services supplied
- The value of the supply, VAT amount and the VAT-inclusive amount of the supply

In some cases, tax invoices need not be issued (for example, for certain periodic supplies) if the underlying documentation, such as a rental agreement, includes the information contained in a tax invoice.

A VAT credit note or debit note may be used to reduce VAT charged and reclaimed on a supply of goods or services. A credit note or a debit note may be issued only if the tax charged is incorrect or if the supplier has paid incorrect output tax as a result of one or more of the following circumstances:

- The supply has been cancelled.
- The nature of the supply has been fundamentally varied or altered.
- The previously agreed consideration has been altered by agreement with the recipient of the supply.

- All or part of the goods or services has been returned to the supplier.

If a credit note adjusts the amount of VAT charged, it must be clearly marked “credit note” and must refer to the original tax invoice. It must briefly indicate the reason that it is being issued and provide sufficient information to identify the transaction to which it refers.

**Proof of exports.** Exports can be classified as either direct exports or indirect exports. Direct exports (that is, the selling vendor is responsible to deliver the goods at an address outside South Africa) can be zero-rated if the documentary requirements are met. The selling vendor may elect to zero-rate indirect exports (that is, the selling vendor delivers the goods to the border including a harbor or airport) if the goods are not exported via road or rail and if the documentary requirements are met.

Documentation that must be retained includes the following:

- The original customs export documentation (such as Form DA550, Form 178 and any export certificate or certificate of origin)
- Commercial and tax invoices for the supply
- Transport documentation and proof that transport costs have been paid
- Proof of payment
- The purchase order or the contract between the recipient and the supplying taxable person

**Foreign-currency invoices.** In general, a tax invoice must be issued in South African rand (R). However, if the invoice relates to a zero-rated supply, the tax invoice may be issued in any currency. If an invoice is issued in a foreign currency, the rand equivalent must be determined using the appropriate exchange rate on the date on which the invoice is issued.

## I. VAT returns and payment

**VAT returns.** The tax return period is monthly for persons with annual taxable turnover in excess of R 30 million. The tax return period is bimonthly for persons with annual taxable turnover below R 30 million. Other tax periods are available (four-monthly, six-monthly and annually) for special categories of persons, but only with the prior agreement with the SARS.

VAT returns must be filed by the 25th day after the end of the tax period or, if returns are filed and paid electronically, by the end of the month following the tax period. Payment is due in full by the same date. If the due date falls on a Saturday, Sunday or a public holiday, the due date is the last business day before the 25th, or the last business day before the end of the month in the case of electronic filing.

**Penalties.** A penalty equal to 10% of the net VAT due is imposed if the VAT return is submitted late or if the VAT payment is made after the due date. However, a vendor may request that the SARS waive the penalty if the delay was not due to the intent of the vendor to postpone liability for payment.

**Interest.** Interest is also charged at the prescribed rate on late payments of VAT, calculated for each month or part of a month.

A vendor may request the SARS to remit interest if the late payment was due to circumstances beyond the vendor's control.

**Additional tax.** Additional tax not exceeding double the value of the VAT due may be levied in the case of evasion.

A range of other offenses related to VAT can result in additional tax and penalties, including fines and, for severe offenses, imprisonment for a period not exceeding 24 months.

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Impuesto sobre el Valor Añadido (IVA)
Date introduced	1 January 1986
European Union (EU) member state	Yes
Administered by	Ministry of Finance ( <a href="http://www.aeat.es">http://www.aeat.es</a> and <a href="http://www.meh.es">http://www.meh.es</a> )
VAT rates	
Standard	18%
Reduced	4%/8%
Other	Exempt and exempt with credit
VAT number format	A – 1 2 3 4 5 6 7 8 or N – 1 2 3 4 5 6 7 C (ES prefix must be added if the taxable person is included in the VAT Information Exchange System [VIES] census)
VAT return periods	Monthly (if turnover exceeded €6,010,121 in the preceding year or if the taxable person is included in the monthly VAT refund procedure) Quarterly Annual statement (required for all taxable persons)
Thresholds	
Registration	None
Distance selling	€35,000
Intra-Community acquisitions	None
Recovery of VAT by nonestablished businesses	Yes (under certain conditions)

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Spain by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person
- The importation of goods from outside the EU, regardless of the status of the importer
- Reverse charge on goods and services received by a taxable person in Spain

For VAT purposes, the territory of Spain excludes the Canary Islands, Ceuta and Melilla.

**C. Who is liable**

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



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

Special rules apply to foreign or “nonestablished businesses.”

**Group registration.** VAT grouping is allowed under the Spanish VAT law. Notwithstanding this rule, companies that belong to the same group must register for VAT individually.

**Nonestablished businesses.** A nonestablished business that makes supplies of goods or services in Spain must register for VAT if it is liable to account for Spanish VAT on the supply.

The reverse-charge mechanism generally applies to supplies made by nonestablished businesses to taxpayers. Under this mechanism, the taxpayer is the recipient of the goods or services supplied.

**Supplies of goods.** If a foreign taxable person supplies goods to a company established in Spain, the recipient of the supply becomes liable for VAT purposes. However, the reverse-charge mechanism does not apply to certain items, including the following:

- Goods acquired through distance or mail-order sales
- Exempt exports
- Exempt intra-Community supplies

The reverse-charge mechanism also applies if a foreign taxable person supplies goods to another foreign taxable person.

**Supplies of services.** If a foreign taxable person supplies services to a company established in Spain, the company established in Spain is treated as the taxpayer.

If a foreign taxable person supplies services to another foreign taxable person, the recipient is liable for the VAT due.

**Tax representatives.** A nonestablished business must register in Spain for VAT purposes if it makes any of the following supplies:

- Intra-Community supplies or acquisitions
- Distance sales in excess of the threshold
- Supplies of goods and services that are not subject to the reverse-charge mechanism
- Exports

In general, nonestablished taxpayers must appoint a tax representative in Spain.

Taxable persons established in the EU, foreign companies established in the Canary Islands, Ceuta or Melilla, and foreign companies established in a country that has a mutual assistance agreement with Spain, are exempt from the above general rule. However, in practice, the tax authorities require the appointment of a VAT representative even for companies established in the EU, because it is mandatory to have a Spanish address where communications issued by the tax authorities can be easily received.

**Penalties.** A penalty of €400 may be assessed for late registration. This penalty may be reduced to €200 if the taxpayer registers voluntarily (albeit late) without receiving a prior request from the Spanish tax authorities.

## D. VAT rates

The following are the VAT rates in Spain:

- Standard rate: 18%
- Reduced rates: 4% and 8%

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

The following tables list examples of exempt goods and services and examples of goods and services taxable at the reduced rates of 4% and 8% (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services**

Immovable property (in certain cases)

Medical services

Finance

Insurance

Universal postal services

### **Examples of goods and services taxable at 4%**

Basic foodstuffs

Books, journals and magazines

Pharmaceutical products for humans

Certain goods and services for handicapped persons

Provision of housing from 20 August 2011 until 31 December 2011

### **Examples of goods and services taxable at 8%**

Food and drink for human or animal consumption

Pharmaceutical products for animals

Prescription glasses and contact lenses

Medical equipment

Residential dwellings

Ornamental flowers and plants

Passenger transport

Hotel and restaurant services

Artistic and cultural services

Garbage collection

Medical services (that do not qualify for exemption)

Trade fairs and exhibitions

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are placed at the disposal of the purchaser. The basic time of supply for services is when the service is performed. If the service is ancillary to a supply of goods, the time of supply is when the goods are placed at the disposal of the purchaser. A VAT invoice must generally be issued at the time of supply.

**Prepayments.** The tax point for prepayments or advance payments is the date when the advance payment is received.

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is when the goods are placed at the disposal of the purchaser. The general rule for prepayments

does not apply to intra-Community acquisitions (that is, a prepayment does not modify the tax point).

**Imported goods.** The time of supply for imported goods is the date of importation (according to the customs documents), or the date on which the goods leave a duty suspension regime.

## **F. Recovery of VAT by taxable persons**

A taxpayer may recover input tax, which is VAT charged on goods and services supplied for business purposes. A taxpayer generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. Input tax may be deducted in the accounting period in which the output VAT was charged or in any successive period, up to a period of four years from the time of supply.

Input tax includes VAT charged on goods and services supplied in Spain, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge transactions.

A valid tax invoice or customs document is required to apply for input tax deduction.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used directly and exclusively for business purposes. In addition, input tax may not be recovered for some items of business expenditure.

In general, input VAT may be claimed with respect to travel, maintenance and lodging expenses if the Spanish corporate income tax law allows for a deduction. Otherwise, the input tax on this type of expenditure is not deductible.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### **Examples of items for which input tax is nondeductible**

Business entertainment  
 Business gifts (unless of very low value)  
 Alcohol and tobacco  
 Private expenditure

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

50% of purchase, hiring, leasing, maintenance and fuel for cars, vans and trucks (a higher percentage of deduction is allowed if the taxable person provides to the authorities evidence proving that the percentage of time used for business purposes exceeds 50%)  
 Attending conferences, seminars and training courses  
 Advertising  
 Business use of home telephone or mobile phone  
 50% of parking  
 Taxis, restaurant meals, hotel accommodation and travel expenses if the expense is allowable under the Spanish income tax or corporate tax law or if the taxable person has the appropriate documentation (generally, an invoice)

**Partial exemption.** Input VAT directly related to the making of exempt supplies is not generally recoverable. If a Spanish taxable person makes both exempt and taxable supplies it may not recover input VAT in full. This situation is referred to as “partial exemption.” Exempt with credit supplies are treated as taxable supplies for these purposes. In Spain, the amount of input VAT that a partially exempt business may recover is calculated using the general pro rata method or the direct allocation method. The general pro rata method is generally used unless the taxable person chooses the direct allocation method. However, the direct allocation method must be used if the general pro rata method provides a VAT recovery amount that exceeds by 20% or more the amount of input tax recoverable using the direct allocation method.

*General pro rata method.* The general pro rata method is based on the ratio of taxable turnover and total turnover during the calendar year. Because the taxpayer cannot know its annual ratio for the current calendar year when filing its periodic VAT returns, the pro rata percentage for the preceding year or an agreed provisional percentage is used. The calculation is regularized in the last period of the VAT year (that is, the actual figures for the year are calculated and applied and any further adjustment is made).

*Direct allocation method.* The direct allocation method consists of the following two-stage calculation:

- In the first stage, the taxpayer must distinguish between input VAT that corresponds to taxable and to exempt supplies. Input VAT directly allocated to taxable supplies is deductible, while input VAT directly related to exempt supplies is not deductible.
- The remaining input VAT that is not allocated directly to exempt and taxable supplies is apportioned using the general pro rata method. The recovery percentage is rounded up to the nearest whole number (for example, a percentage of 16.3% is rounded up to 17%).

*Deductions in different sectors.* If a taxable person undertakes activities in different economic sectors, it must apply different methods to calculate the partial exemption deduction for each sector, as if each economic activity were carried out by an independent business. This rule applies if the business undertakes activities that are subject to different pro rata recovery percentages. A business is deemed to undertake such activities in the following circumstances:

- The activities fall under different groups according to the national classification of economic activities.
- The pro rata percentage for VAT recovery for one economic sector of the business differs by more than 50 percentage points (either higher or lower) from another sector of the business.

If goods or services are used in one of the distinct economic sectors, the VAT paid is recovered according to the pro rata recovery percentage for that sector. However, if goods or services are used by more than one economic sector, the amount of VAT recovered must be based on the general pro rata method.

**Capital goods.** Capital goods are items of capital expenditure that are used in a business over one year and that have an acquisition price exceeding €3,000. Input VAT is deducted in the VAT year in which the goods are acquired. The amount of input VAT recovered

depends on the taxpayer's pro rata recovery percentage in the VAT year of acquisition. However, the amount of input VAT recovered for capital goods must be adjusted over time if the taxable person's pro rata recovery percentage differs by 10 percentage points during the adjustment period or if the goods are transferred or sold during the adjustment period.

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

- Immovable property: adjusted for a period of 10 years (the year of the acquisition and the following nine calendar years)
- Movable property: adjusted for a period of five years (the year of the acquisition and the following four calendar years)

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax (1/10 for immovable property and 1/5 for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business increases or decreases, compared with the year in which the capital goods were acquired.

**Refunds.** If the amount of input VAT recoverable exceeds the amount of output VAT payable, a refund may be claimed. A business may choose to request a refund of the excess VAT or to carry it forward to offset output VAT in the following four years.

Two different procedures are available with respect to applications for refund of the excess input VAT. These procedures are summarized below.

*General procedure.* Under the general procedure, the taxable person may only apply for the refund in the last VAT return of the year (monthly or quarterly). The tax authorities have a six-month period beginning on the date of the application to analyze whether the taxable person has the right to obtain the refund. After such term is exceeded, delay interest on the refund due is payable to the taxable person.

*Special procedure.* Under the special procedure, the taxable person may apply for inclusion in the monthly VAT refund census. Taxable persons included in such a census may apply for the VAT refund in each monthly VAT return. The tax authorities have a six-month period beginning on the date of the application to analyze whether the taxable person has the right to obtain the refund. After such term is exceeded, delay interest on the refund due is payable to the taxable person.

## **G. Recovery of VAT by nonestablished businesses**

Spain refunds VAT incurred by businesses that are not established in Spain. Nonestablished businesses may claim Spanish VAT to the same extent as VAT-registered businesses.

For businesses established in the EU, refund is made under the terms of the EU 2006/112/EC Directive (one-stop shop system from 1 January 2010). For businesses established outside the EU, refund is made under the terms of the EU 13th Directive on the condition of reciprocity. Spanish VAT is refunded only to non-EU claimants established in Canada, Israel, Japan, Monaco, Norway and Switzerland. A non-EU claimant must appoint a VAT representative in Spain.

For the general VAT refund rules under the EU 2006/112/EC Directive and the EU 13th Directive, see the chapter on the EU, page 208.

**Refund application.** As a result of the entry into force of the EU VAT Package, effective from 1 July 2010, VAT refund applications corresponding to VAT borne in Spain by nonestablished businesses from the EU are filed in the EU country where the business is established instead of with the Spanish tax authorities.

Applications from businesses not established in Spain or in another EU country must continue to be filed with the Spanish tax authorities.

**Repayment interest.** The Spanish VAT authorities have made the commitment to pay refunds within six months after the date on which the claim for a refund is submitted. Interest is paid on late refunds.

## H. Invoicing

**VAT invoices and credit notes.** A Spanish taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for certain retail transactions if the taxable amount does not exceed €3,000 (tickets are issued instead), unless requested by the customer.

A VAT invoice is necessary to support a claim for input VAT deduction or a refund under the EU 2006/112/EC Directive or the EU 13th Directive refund schemes (see the chapter on the EU, page 208).

A credit note (*factura rectificativa*) must be cross-referenced to the original invoice and must contain the same information together with the reason for the amendment and the final corrected position.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as zero-rated, exports and intra-Community supplies must be supported by evidence that the goods have left Spain. Acceptable proof includes the following documentation:

- For an export, the documentation consists of the customs declaration (export SAD) with evidence that it was filed and admitted by the customs authorities, transport documents and an indication on the invoice of the article of the Spanish VAT law that allows exemption with credit for the supply.
- For an intra-Community supply, the supplier must retain a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU member state), together with a range of commercial documentation, such as bills of lading, transport documentation and proof of payment.

**Self-invoices.** Effective from 1 January 2011, the issuance of a self-invoice is not obligatory when the reverse-charge mechanism is applied.

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, the values for VAT purposes and the VAT amounts must

be converted to euros. The exchange rate that is used must be the official selling rate published by the Bank of Spain for the date on which the VAT is due. The VAT amount must be expressly stated in euros.

## I. VAT returns and payment

**VAT returns.** Periodic VAT returns are submitted in Spain on a monthly or quarterly basis, depending on the taxable person's turnover and activities. All taxable persons must also complete an annual summary VAT return.

Taxable persons whose turnover in the previous year exceeded €6,010,121 must file their VAT returns on a monthly basis. Taxable persons included in the monthly VAT refund census must also file monthly VAT returns (and the VAT books [Form 340]), because they are entitled to apply for a VAT refund on a monthly basis.

Periodic VAT returns must be filed and the tax paid by the due date. Quarterly VAT returns must be submitted and the tax paid by the 20th day of the month following the end of the quarter for the first three calendar quarters, and by 30 January of the following year for the last calendar quarter. Monthly VAT returns must be filed and the tax paid by the 20th day of the month following the month of the assessment. However, the VAT return for the month of July may be filed using the same deadline as the month of August (that is, 20 September).

The annual summary VAT return must be filed by 30 January.

**Surcharges.** The following surcharges apply to the late submission of VAT returns or late payment of VAT before any request by the tax authorities:

- Delay up to three months: 5% of the tax due
- Delay between three months and six months: 10% of the tax due
- Delay between 6 months and 12 months: 15% of the tax due
- Delay longer than 12 months: 20% of the tax due plus interest

## J. EU declarations

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

The current threshold for INTRASTAT Arrivals is €250,000. The current threshold for INTRASTAT Dispatches is also €250,000.

The INTRASTAT return submission period is monthly. The submission deadline is the 12th day following each month. A taxable person required to file INTRASTAT returns must file them each month even if they are nil returns.

The penalty for late or incorrect filing depends on the level of infringement. Penalties range from €60 to €30,050.61.

**EU Sales and Acquisitions List.** If a Spanish taxable person makes intra-Community supplies or intra-Community acquisitions of

goods and/or services in any return period, it must submit an EU Sales and Acquisitions List (ESAL). An ESAL return is not required for any period in which the taxable person does not make any intra-Community supplies or acquisitions of goods and/or services.

In principle, ESAL returns are submitted on a monthly basis. However, ESL returns must be filed on a quarterly basis if the intra-EU supplies of goods and/or services performed in the current quarter or during the four preceding calendar quarters do not exceed the threshold of €100,000 (threshold of €50,000, effective from 2012).

Taxable persons whose turnover does not exceed €35,000 may file annually under certain conditions.

ESLs must be submitted by the 20th day of the month following the end of the monthly or quarterly filing period. The last monthly or quarterly ESL for a year must be filed by 30 January of the following year.

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

A penalty for late submission may amount to €200 which may be reduced to €100 if the declaration is filed voluntarily without a request from the tax authorities. The penalty for an incorrect return may amount to €150.

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Mervärdesskatt (Moms)
Date introduced	1 January 1969
European Union (EU) member state	Yes
Administered by	Ministry of Finance ( <a href="http://www.finans.regeringen.se">http://www.finans.regeringen.se</a> )
VAT rates	
Standard	25%
Reduced	6%/12%
Other	Exempt and exempt with credit
VAT number format	SE 5 5 6 1 2 3 1 2 3 4 0 1
VAT return periods	Monthly (if turnover exceeds Swedish kronor [SEK] SEK 40 million) Quarterly (with the possibility to opt for monthly) Annually (if turnover is below SEK 1 million)
Thresholds	
Registration	None
Distance selling	SEK 320,000
Intra-Community acquisitions (for exempt taxable persons)	SEK 90,000
Recovery of VAT by nonestablished businesses	Yes

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Sweden by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person
- Reverse-charge services received by a taxable person in Sweden
- The importation of goods from outside the EU, regardless of the status of the importer

**C. Who is liable**

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

A domestic reverse charge applies if a company sells construction services to a construction company. This rule also applies to foreign traders that sell or purchase such services.

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

Special rules apply to foreign or “nonestablished businesses.”

**Group registration.** Companies in the financial sector as well as companies in “an agency relationship” for income tax purposes may form a VAT group. If a VAT group is formed, the group is liable for tax if it engages in business that implies tax liability.

Only entities with a fixed establishment in Sweden may be part of a Swedish VAT group. A VAT group may consist only of taxable persons that are closely connected to each other “financially, economically and organizationally.” All three of these requirements must be satisfied. The following are the applicable rules:

- A “financial link” exists between two companies if one company holds more than 50% of the votes in the other.
- An “economic link” exists if the companies continually exchange goods or services.
- An “organizational link” exists if the group members have some joint administrative functions, such as joint management or joint marketing.

**Nonestablished businesses.** A nonestablished business that makes supplies of goods or services in Sweden must register for VAT if it is liable to account for Swedish VAT on the supply or if it makes intra-Community supplies or acquisitions of goods.

A domestic reverse charge generally applies to supplies made by nonestablished businesses to VAT-registered persons in Sweden. Under this measure, the taxable person that receives the supply must account for the Swedish VAT due. If the reverse charge applies, the nonestablished business is not required to register for Swedish VAT. The reverse charge does not apply to the transport of persons, cultural services, or supplies made to private persons or nontaxable legal persons.

Consequently, nonestablished businesses must register for Swedish VAT if they make any of the following supplies:

- Intra-Community supplies or acquisitions (see the chapter on the EU, page 208)
- Distance sales in excess of the threshold (see the chapter on the EU, page 208)
- Supplies of goods and services that are not subject to the domestic reverse charge

Businesses that are established in the EU are not required to appoint a tax representative to register for VAT in Sweden. However, EU businesses may opt to appoint a tax representative. This measure also applies to businesses established in any non-EU country that has mutual assistance provisions with the EU or with Sweden.

Businesses that are established outside the EU must generally appoint a resident tax representative to register for Swedish VAT. A tax representative is not jointly liable for VAT debts with the business that it represents.

**Late-registration penalties.** No specific penalty is assessed for late registration. However, interest is charged on any VAT paid late as a result of late registration.

## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services, as well as supplies of intangible services made either to another taxable person established in the EU or to any recipient outside the EU (see the chapter on the EU, page 208).

The following are the VAT rates in Sweden:

- Standard rate: 25%
- Reduced rates: 6% and 12%

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

Immovable property  
 Medical services  
 Finance  
 Insurance  
 Pharmaceutical supplies

### Examples of goods and services taxable at 6%

Books and newspapers  
 Copyrights and artistic rights  
 Cultural services  
 Passenger services

### Examples of goods and services taxable at 12%

Foodstuffs  
 Hotel accommodation

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the service is completed. If the consideration is paid in full or in part before the invoice is issued, the actual tax point becomes the date on which payment is received (but the tax point only applies for the amount paid).

**Prepayments.** For prepayments or advance payments, the tax point is the date on which the advance payment is received.

**Intra-Community acquisitions.** The time of supply for intra-Community acquisitions of goods is the same as the time of supply for domestic supplies.

**Imported goods.** The time of supply for imported goods is when the import takes place.

**Reverse charge.** The time of supply for goods or services subject to the reverse charge is the earlier of the date of delivery or the date on which payment is received.

## **F. Recovery of VAT by taxable persons**

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

Input tax includes VAT charged on goods and services supplied in Sweden, VAT paid on imports of goods and VAT self-assessed on intra-Community acquisitions of goods and reverse-charge services (see the chapter on the EU, page 208).

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

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### **Examples of items for which input tax is nondeductible**

Purchases of cars

Business entertainment (in excess of the allowable expense limits)

Private expenditure

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

Purchase, lease, maintenance and fuel for vans and trucks

Maintenance and fuel for cars and 50% lease of a car used for business (1,000 km a year)

Conferences, seminars and training courses

Advertising

Business use of a mobile phone

Hotel accommodation (excluding restaurant expenses)

Restaurant expenses (SEK 90 exclusive of VAT)

Business entertainment (SEK 180 exclusive of VAT)

Business gifts (with a value of SEK 180 or less exclusive of VAT and valued less than SEK 225 inclusive of VAT)

**Partial exemption.** Input tax directly related to exempt supplies is not generally recoverable. If a Swedish taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as “partial exemption.” Exempt

with credit supplies are treated as taxable supplies for these purposes.

In Sweden, the amount of input tax that a partially exempt business may recover is generally calculated in the following two stages:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to exempt supplies is not deductible.
- The remaining input tax that is not allocated directly to exempt and taxable supplies is then apportioned based on the value of taxable supplies compared with total turnover, or it is apportioned by another reasonable method. If turnover is used to calculate the recoverable amount, the recovery percentage can be rounded up to the nearest whole number.

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

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

- Immovable property acquired after 1 January 2001 that cost more than SEK 400,000 exclusive of VAT: adjusted for a period of 10 years
- Machinery and equipment that cost more than SEK 200,000 exclusive of VAT: adjusted for a period of five years

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax (1/10 for immovable property and 1/5 for machinery and equipment). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

**Refunds.** If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxable person has an input tax credit. A refund of the credit is triggered automatically by the submission of the VAT return.

## G. Recovery of VAT by nonestablished businesses

Sweden refunds VAT incurred by businesses that are neither established nor registered for VAT in Sweden. Nonestablished businesses may claim a refund of Swedish VAT to the same extent as VAT-registered businesses.

Effective from 1 January 2010, refund is made to businesses established in the EU under the terms of EU Directive 2008/9. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. Sweden does not exclude claimants from any non-EU country.

For the general VAT refund rules under EU Directive 2008/9 and the EU 13th Directive, see the chapter on the EU, page 208.

For businesses established outside the EU, the deadline for refund claims is 30 June of the year following the calendar year in which the tax is incurred. For businesses established in the EU, the deadline is 30 September.

Claims may be submitted in Swedish, English, French or German. Applications for refund from businesses established outside the EU must be accompanied by the appropriate documentation (see the chapter on the EU, page 208).

Businesses established in the EU may not make an application for a refund on paper to the Swedish tax authority. Instead, they must submit the application electronically to the tax authority where they are established.

The minimum claim period is three months, while the maximum period is one year. The minimum period of three months does not apply to a period ending at the end of a calendar year. The minimum claim for a period of less than a year but of at least three months is SEK 4,000, and the minimum amount for an annual claim or for the remainder of a calendar year is SEK 500.

The following is the address for applicants from Albania, Bosnia-Herzegovina, Croatia, the Faeroe Islands, Greenland, Iceland, Macedonia, Montenegro, Serbia and Turkey:

Skatteverket  
Utlandskontoret  
SE-205 31 Malmö  
Sweden

The following is the address for applicants from other countries:

Skatteverket  
Skattekontor 9 Stockholm  
SE-106 61 Stockholm  
Sweden

**Repayment interest.** The average handling period in Sweden for refund claims under the EU 13th Directive is two to three months, and the time limit is six months. However, interest is not paid on late repayments. The time limit for the tax authority to deal with refund applications from businesses established within the EU is four months. If a claim for refund is granted, but repaid after this time limit, interest is paid. This rule applies if the applicant has complied with any requests for extra information from the tax authority within the time limit.

## H. Invoicing

**VAT invoices and credit notes.** A Swedish business must generally issue VAT invoices for all supplies made to other businesses or legal persons. Invoices are not required for retail transactions with private persons.

A VAT invoice containing the information required by the VAT Act is necessary to support a claim for input tax deduction or a refund for foreign businesses (see the chapter on the EU, page 208).

Credit notes may be issued in the following circumstances:

- They may be used to correct genuine errors or overcharges.

- They may be issued following the cancellation of a supply.
- They may give effect to a bonus or discount.
- They may be issued as a result of the renegotiation of consideration for a supply.

A credit note must show an unambiguous reference to the original invoice and the reduction in value and VAT on the supply.

**Proof of exports and intra-Community supplies.** VAT is not chargeable on exported goods or on intra-Community supplies of goods (see the chapter on the EU, page 208). However, to qualify as exports and intra-Community supplies, the export or supply must be supported by evidence confirming that the goods have left Sweden. Acceptable proof includes the following documentation:

- For an export, the stamped customs documentation and commercial documentation (such as bill of lading, copy of the invoice, delivery note and proof of payment)
- For an intra-Community supply, a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU member state), plus a range of commercial documentation (such as bill of lading, transport documentation, proof of payment and proof of receipt)

The Swedish courts have ruled that the supplier of goods has the burden to prove that the goods have actually left Sweden.

**Foreign-currency invoices.** Swedish taxable persons may maintain their accounts in either euros or SEK. If a VAT invoice is issued in a currency other than the currency used for accounting, the values for VAT purposes and the VAT amounts must be converted to euros or SEK. The exchange rate used must be shown on the invoice.

## I. VAT returns and payment

**VAT returns.** Periodic VAT returns are submitted in Sweden for monthly, quarterly or yearly periods, depending on the taxable person's turnover.

VAT liabilities are reported on the same tax return form as payroll taxes and employee income tax amounts withheld by employers. Monthly VAT returns must be filed if the taxable person's turnover exceeds SEK 40 million. Otherwise quarterly reporting may apply. However, a taxable person may opt to file monthly. A yearly reporting period applies for taxable persons whose turnover is less than SEK 1 million per year.

VAT returns must be filed with full payment of VAT. Monthly VAT returns generally must be submitted by the 26th day of the month after the end of the reporting period. Quarterly VAT returns must be submitted by the 12th day of the second month after the end of the reporting period. The same rules apply to taxable persons that have yearly turnover of less than SEK 40 million and that apply for monthly VAT returns. Taxable persons whose turnover exceeds SEK 40 million must file monthly returns by the 26th day of the month following the return period.

Returns must be completed and return liabilities must be paid in SEK.

**Penalties.** A penalty of SEK 500 is imposed for late filing of a VAT return. If one of the three preceding VAT returns has been filed late, the penalty is SEK 1,000. Late payment of VAT results in the imposition of an interest penalty. If the amount due is below SEK 10,000, low interest is calculated. Low interest is the same interest as the base interest. If the amount due exceeds SEK 10,000, the interest is base interest plus 15%. The base interest is 1% as of 1 October 2011.

## J. EU declarations

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

The threshold for INTRASTAT Arrivals and Dispatches is SEK 4,500,000.

The INTRASTAT reporting period is monthly. The submission deadline is normally between the 10th and 15th day following the reporting period for paper returns and between the 13th and 18th day for electronic returns.

INTRASTAT reports must be filed in SEK.

In principle, penalties may be imposed for late filing of INTRASTAT reports or for errors or omissions. However, penalties are rarely imposed. If a penalty is assessed, the courts take several factors into consideration (such as the size of the business and its turnover) in determining the amount owed.

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

ESLs must be submitted monthly with respect to goods. An ESL regarding supplies of services must be submitted quarterly. However, if a business supplies both goods and services, the reporting must be in accordance with the rules regarding goods. Taxable persons may apply to make quarterly submissions if the total amount of supplies and transfers of goods does not exceed SEK 1 million for the current quarter as well as for the preceding four quarters. The due date is the 20th day of the month following the end of the ESL return period for paper ESLs and the 25th day for electronic ESLs.

ESL reports must be filed using amounts expressed in SEK.

A penalty of SEK 1,000 is imposed for late, missing or inaccurate ESLs.

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## Switzerland

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local names	Mehrwertsteuer (MWST) Taxe sur la valeur ajoutée (TVA) Imposta sul valore aggiunto (IVA)
Date introduced	1 January 1995
European Union (EU) member state	No

Administered by	Federal Tax Administration ( <a href="http://www.estv.admin.ch/mwst/aktuell">http://www.estv.admin.ch/mwst/aktuell</a> )
VAT rates	
Standard	8%
Reduced and special	2.5% and 3.8%
Other	Zero-rated and exempt
VAT number format	123'456 or CHE-123.456.789 MWST (effective from 1 January 2014, only the latter format will be allowed)
VAT return periods	Quarterly Half-yearly (if the taxable person has applied to be taxed under the balance tax rate method) Monthly (optional if excess of input over output VAT occurs regularly)
Thresholds	
Registration	Nil (however, for enterprises with turnover below CHF 100,000, a voluntary exemption may apply)
Recovery of VAT by nonestablished businesses	Yes (with the observance of the reciprocity rule)

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in Switzerland for consideration by a taxable person.
- The receipt of reverse-charge services or, in some cases, goods by any person in Switzerland who purchases the items from an entity that is established outside Switzerland and that is not registered for VAT in Switzerland (services and goods for which the recipient is liable for the VAT due). Services and goods purchased by nontaxable persons are not subject to the reverse charge if the amount due to the foreign supplier does not exceed CHF 10,000 per calendar year.
- The importation of goods from outside Switzerland and Liechtenstein, regardless of the status of the importer.

Liechtenstein is considered to be the domestic territory for Swiss VAT purposes. Likewise, Switzerland is considered to be part of the territory of Liechtenstein for the purposes of VAT in Liechtenstein.

## C. Who is liable

A taxable person is any person who, regardless of the legal form, purpose or result, carries out a business in Switzerland. Carrying out the business involves the independent exercising of professional or commercial activities together with the intention to execute regular transactions, and acting externally in one's name.

**Group registration.** Legal persons with their seat in Switzerland or commercial units in Switzerland can form a VAT group if they are related as a result of "joint supervision." The group may include Swiss branches of foreign entities, to the extent that the

foreign entities are under the same “joint supervision” as the other VAT group members. Although Liechtenstein is considered to be domestic territory for Swiss VAT purposes (and vice versa), it is not possible to form a VAT group that includes both Swiss and Liechtenstein entities.

The tax group must appoint a tax representative who will deal with the VAT-related proceedings of the group. The minimum period for which the tax group can exist is one year.

VAT group members are treated as a single taxable person with a single VAT number.

The following are the significant aspects of grouping:

- The VAT group submits a single, consolidated VAT return for all of its members.
- VAT is not chargeable on transactions between group members.
- All VAT group members are jointly and severally liable for the group’s VAT liabilities.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a legal seat or fixed establishment in the territory of Switzerland. A nonestablished business that makes supplies of goods or services in Switzerland must register for VAT if it is liable to account for Swiss VAT on the supplies.

**Tax representatives.** A nonestablished business (see *Nonestablished businesses*) must appoint a tax representative if it supplies goods or services subject to Swiss VAT.

**Reverse charge.** The “reverse charge” is a form of self-assessment for VAT through which the recipient accounts for the tax. The reverse-charge mechanism applies to the following situations:

- A Swiss recipient receives services from a supplier domiciled abroad who is not registered for Swiss VAT, and the place of supply is in Switzerland.
- Data carriers without market value are imported into Switzerland, and certain services and rights are associated with these data carriers.
- A supply of goods is made in Switzerland by a business that is established abroad and that is not registered for Swiss VAT, and the supply is not subject to import VAT.

A Swiss recipient is liable for the settlement of VAT under the reverse-charge mechanism if the recipient is a taxable person or if the value of the supplies received exceeds CHF 10,000 per calendar year.

Effective from 1 January 2010, the place of supply for most supplies of services is the customer’s country (fall-back rule). In the circumstances described above, the customer must account for VAT under the reverse-charge procedure. However, some exceptions exist. These exceptions, for which additional consideration regarding the place-of-supply rules needs to be made, include the following:

- Services which require the physical presence of the customer, who is a natural person, at the place where these services are provided (for example, beauty or curative therapies and treatments, family advisory and child care)
- Services of travel agents and event organizers

- Services in the fields of culture, art, sport, science, education or entertainment, and similar services including the activities of organizers and related activities
- Restaurant services
- Passenger transport services
- Services related to immovable property (for example, intermediation, administration, valuation, services in connection with the preparation and coordination of construction works such as architectural, engineering and supervising services and land and building monitoring, and accommodation services)
- Services in the field of international development and humanitarian aid

The rule providing that the place of supply is the domicile of the recipient applies to supplies of electricity power or natural gasoline in pipes, even if those supplies are treated as supplies of goods and not services.

The reverse-charge mechanism applies to electronic services, supplies of electricity power or natural gasoline in pipes and telecommunication services only if the Swiss service recipient is a VAT-registered business. Consequently, foreign businesses that provide electronic supplies of services to persons who are not registered for VAT must register for VAT in Switzerland and charge Swiss VAT if their turnover in Switzerland exceeds the annual threshold of CHF 100,000. For all other services, the reverse-charge mechanism applies regardless of whether the recipient of the services is registered for VAT.

**Late-registration penalties.** A penalty may be levied for late VAT registration. In the case of tax evasion, fines of up to CHF 800,000 may be charged. The amount of the fine varies depending on the circumstances.

#### D. VAT rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT at any rate. The term “tax-exempt without credit” refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as tax-exempt with credit (zero-rated), which means that no VAT is chargeable, but the supplier may recover the related input tax.

In Switzerland, the following are the VAT rates:

- Standard rate: 8%
- Reduced rate: 2.5%
- Special rate of 3.8% (for hotel accommodation)

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

The following tables list examples of tax-exempt supplies of goods and services and supplies of goods and services that are taxed at the reduced and special VAT rates (these lists are not exhaustive).

##### **Examples of tax-exempt without credit supplies**

Healthcare (in some cases; unless opted for taxation)

Financial transactions

Insurance

Education (unless opted for taxation)

Real estate (unless opted for taxation)

**Examples of tax-exempt with credit supplies**

Exports of goods and services

Supplies of certain goods and services to airlines

Services with the place of supply abroad

**Examples of goods and services taxable at 2.5%**

Books, newspapers and magazines

Food and drinks (except provided by hotels and restaurants)

Drugs

Water in pipes

**Examples of goods and services taxable at 3.8%**

Hotel accommodation, including breakfast

**E. Time of supply**

The time when VAT becomes due is called the “time of supply” or the “tax point.” In Switzerland, taxable turnover must be declared for the VAT quarter (or VAT month, if monthly declarations are filed) in which the sales invoice for a supply is issued or in which payment is received (if no invoice is issued). If the declaration is made on a cash basis, the turnover must be declared for the quarter in which payment is collected.

**Prepayments.** The tax point for a prepayment is when the supplier receives the consideration or when the invoice is issued, whichever is earlier.

**Reverse charge.** The tax point for reverse-charge services for a taxable person is when the invoice is received or when the service fee is paid. In all other situations, including declarations made on a cash basis, the effective payment date is decisive.

**Imported goods.** The time of supply for imported goods is the official date of importation.

**F. Recovery of VAT by taxable persons**

A taxable person may recover input tax, which is VAT on purchases, to the extent that the purchases of goods and services are related to taxable supplies, including tax-exempt supplies with credit and supplies rendered outside Switzerland or Liechtenstein that would be taxable if rendered domestically. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in Switzerland and Liechtenstein, VAT paid on imports of goods and VAT self-assessed on reverse-charge supplies.

According to a recommendation of the Swiss VAT authorities, a valid tax invoice or customs document and proof that the input VAT was paid should support a claim for input tax.

Effective from 1 January 2010, new rules allow the tax authorities to accept all means of proof.

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

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Private expenditure

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

Purchase, hire, lease, maintenance and fuel for cars, vans and trucks  
(output tax is due on the private use of company cars)

Parking

Conferences, seminars and training courses

Books

Business use of home telephone (output tax is due on the private element)

Advertising

Transport

Hotel accommodation

Business gifts (subject to restrictions; output tax may be due)

**Partial exemption.** Input tax directly related to making tax-exempt supplies without credit is generally not recoverable. If a Swiss taxable person makes both tax-exempt supplies without credit and taxable supplies, it may not recover input tax in full. This situation is referred to as “partial exemption.”

In Switzerland, the amount of input tax that a partially exempt business can recover may be calculated using the following two-stage calculation:

- The first stage identifies the input VAT that can be directly allocated to taxable or to tax-exempt supplies without credit. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to tax-exempt supplies without credit is not deductible. Tax-exempt supplies with credit are treated as taxable supplies for these purposes.
- The next stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be partly allocated to taxable supplies and accordingly only partly recovered. The calculation may be performed using a general pro rata method based on the values of taxable supplies made versus tax-exempt supplies without credit, or it may be performed using another appropriate method.

**Refunds.** If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in the same period, the taxable person is entitled to a refund of the excess amount. A VAT repayment is paid automatically within 60 days after the return is received by the Swiss VAT authorities.

**G. Recovery of VAT by nonestablished businesses**

Switzerland refunds VAT incurred by businesses that are neither established nor registered for VAT in Switzerland or Liechtenstein. Nonestablished businesses may generally claim Swiss VAT to the

same extent as Swiss VAT-registered businesses. However, restrictions apply to certain types of expenditure for claimants established in certain countries.

Refunds are made on the condition of reciprocity. Repayments are currently made to claimants from the following countries.

Australia	Greece	Norway
Austria	Hong Kong	Poland
Belgium	Hungary	Portugal
Bermuda	Ireland	Romania
Bulgaria	Israel	Saudi Arabia
Canada	Italy	Slovak Republic
Cyprus	Japan	Slovenia
Czech Republic	Latvia	Spain
Denmark	Lithuania	Sweden
Estonia	Luxembourg	Taiwan
Finland	Macedonia	Turkey
France	Monaco	United Kingdom
Germany	Netherlands	United States

**Refund application.** The deadline for refund claims is 30 June following the calendar year in which the supply received was invoiced. This deadline is strictly enforced.

Claims may be submitted in French, German or Italian. The claimant must appoint a representative who is a natural person or a legal entity whose domicile or registered office is in Switzerland.

The claim period is one year. The minimum claim amount is CHF 500.

The following documentation must accompany the claim (the forms indicated below are available for download at the website of the Swiss VAT authorities):

- Completed VAT refund claim (Forms 1222 and 1223). Form 1222 identifies the Swiss tax representative that needs to be appointed to apply for the refund.
- Original VAT invoices.
- Proof of payment (if requested by the Swiss tax authorities).
- A Certificate of Taxable Status for the claimant, which is issued by the competent tax authorities in the country where the claimant is established, to prove the business status of the claimant.

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

Eidgenoessische Steuerverwaltung  
Hauptabteilung Mehrwertsteuer  
Schwarztorstrasse 50  
CH-3003 Berne  
Switzerland

**Repayment interest.** Refunds are generally made within six months after the date of application. However, the Swiss VAT authorities pay interest on refunds made after this period if reciprocity rules are observed.

## H. Invoicing

**VAT invoices and corrections.** A Swiss taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a refund under the VAT refund scheme for nonestablished businesses.

A VAT credit or debit note may be used to correct the VAT charged and reclaimed on a supply of goods or services. These documents must be cross-referenced to the original VAT invoice.

**Proof of exports.** Swiss VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence that the goods have left Switzerland. Acceptable proof includes the officially validated customs documentation.

**Foreign-currency invoices.** If a Swiss VAT invoice is issued in a currency other than Swiss francs (CHF), the amounts must be converted to Swiss francs, using the appropriate exchange rates published by the Federal Tax Administration, which are available on its website (monthly or daily rates are available). If no clear tax advantage is gained, the use of a group exchange rate may be allowed.

**VAT registration numbers.** Since 1 January 2011, every company has received a unique and permanent company identification number, which replaced all existing identification numbers used by the public administration, including the six-digit Swiss VAT numbers. The new identification number must be mentioned on invoices, together with a reference to the taxpayer's VAT registration. During a transitional period of three years, which began on 1 January 2011, taxpayers may choose whether to use the old six digit Swiss VAT number or the new company identification number. Effective from 1 January 2014, companies must use only the new company identification number.

## I. VAT returns and payment

**VAT returns.** Swiss VAT returns are usually submitted for quarterly periods. If the taxable person has applied to be taxed under the balance tax rate method (that is, the tax due is calculated by multiplying the gross total taxable turnover by the balance tax rate authorized by the Swiss tax authorities), VAT returns must be submitted on a half-yearly basis. Taxable persons with a regular excess of input over output VAT may apply to submit monthly returns. The VAT return is due, together with full payment, 60 days after the end of the VAT settlement period.

VAT liabilities must be paid in Swiss francs.

**Penalties.** Interest at a rate of 4.5% a year may be assessed for the late payment of VAT. Penalties may be also assessed for the late submission of a VAT return.

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## Taiwan

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**A. At a glance**

Name of the tax	Business tax (including value-added tax [VAT] and Gross Business Receipt Tax [GBRT])
Introduced	13 June 1931 (revised October 2011)
European Union (EU) member state	No
Administered by	Ministry of Finance (MOF)
Rates	
VAT	0%/5% and exempt
GBRT	0.1% to 25%
Return periods	Bimonthly
Thresholds	
Registration	None (a business entity that conducts business activities in Taiwan must register)
Recovery of VAT by nonestablished businesses	No (certain exceptions exist)

**B. Scope of the tax**

Taiwan imposes business tax, which consists of VAT and GBRT.

Business tax applies to the following:

- Sales of goods in Taiwan. A transaction involving goods is a transfer of ownership of goods to others for consideration. This is not limited to goods exchanged for money. The exchange of goods for other goods is also included.
- Sales of services in Taiwan. A transaction involving services is the rendering of services to others or supplying goods for the use of others for consideration.
- Import of goods into Taiwan by individuals or companies.

Taxable persons may be subject to both VAT and GBRT. For example, a bank may be subject to VAT on its rental sales and GBRT on its interest income.

Input tax is deductible only with respect to VAT.

Exempt supplies apply to both VAT and GBRT. Zero-rated supplies apply only to VAT.

In general, both VAT and GBRT liability are based on the sales amount, which includes all of the consideration received from sales of goods and services, and expense reimbursements.

### C. Who is liable

**Taxable persons.** The following persons are considered taxable persons for business tax purposes:

- Business entities that supply goods or services.
- Consignees or holders of imported goods.
- Purchasers of services supplied by foreign entities that have no fixed place of business in Taiwan. However, if a business entity purchasing services is solely engaged in the operation of goods or services that are subject to VAT in Taiwan, the business entity is not subject to business tax on its purchases of services supplied by a foreign entity.

**Nonestablished businesses.** Business tax also applies to the following taxable supplies made by nonresidents:

- Taxable sales of goods in which nonestablished businesses consign goods to Taiwanese entities that sell the consigned goods on behalf of the foreign nonestablished businesses
- Taxable sales of services by foreign entities that have no fixed place of business in Taiwan to Taiwanese entities described in the last bullet in *Taxable persons*

The business tax rate is 3% for the purchase of core business-related services from foreign financial institutions that do not have a fixed place of business in Taiwan. For purchases of other services, the business tax rate is the standard rate of 5%.

**Representative offices.** A representative office of a foreign enterprise is prohibited from engaging in revenue generation activities but may engage in certain limited activities, such as liaison and procurement services for its head office. Reimbursements from the head office to the representative office are not taxable.

**Late-registration penalties.** Late business tax registrations are subject to the greater of the following penalties:

- Penalty of not less than NT\$3,000 and not more than NT\$30,000, which may be imposed repeatedly if the registration is not filed within the period prescribed by the tax authority
- Penalty of up to five times the amount of tax evaded

### D. Business tax rates

**Rates.** The VAT rates are 5% (the standard rate) and 0%.

The following are the GBRT rates:

- 0.1% for traders in the agricultural wholesale market and small businesses supplying agricultural products
- 1% for small businesses and other business entities that are excluded by the MOF from reporting their transactions
- 1% for reinsurance premiums of insurance enterprises (5% for operations other than authorized core businesses)
- 2% or 5% on the sale of services by local financial institutions
- 3% or 5% on the purchase of services from nonestablished financial institutions
- 15% for nightclubs or restaurants providing entertainment
- 25% for saloons or tearooms, coffee shops, and bars offering female companionship (in nightclubs, customers can ask waitresses to sit aside, serve drinks, chat and sing karaoke)

The following tables list examples of exempt supplies and zero-rated supplies for VAT purposes (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Certain essential and unprocessed foods

Sale of lands

Certain bonds and securities

Sales of fixed assets that are not regularly traded by certain businesspersons subject to GBRT

**Examples of zero-rated supplies**

Export of goods

Services related to exports

Services rendered in Taiwan but used outside Taiwan

Sales of goods or services to taxable persons in bonded areas for the buyers' operations

**E. Timing of VAT liability**

The following are the rules for the timing of VAT liability:

- Goods: on delivery of the goods or payment of the proceeds, whichever is earlier
- Services: in general, on payment of the remuneration
- Continuous supplies of services: in general, on payment of the remuneration
- For imported goods: on customs declaration

In general, liability for GBRT arises on receipt of payments.

**F. Recovery of VAT by taxable persons**

**Deductibility of input VAT.** Input VAT is deductible in the current and next filing periods. If a taxpayer reports the input VAT after the next filing period, the taxpayer must provide the reasons in an attachment to the tax return.

**Nondeductible input tax.** Input VAT is not deductible if supporting documents with respect to purchased goods or services are not obtained or maintained. In addition, input VAT is not deductible if it is incurred on purchases of the following:

- Goods or services that are not used in the principal or ancillary business operations of the purchaser. However, input tax on purchases made for assisting national defense construction, troop morale, and contributions to the government is deductible.
- Goods or services for social relations purposes.
- Goods or services provided to individual employees.
- Passenger cars for personal use.

**Capital goods.** Input VAT on the acquisition of fixed assets is refundable to business entities.

**Refunds.** Overpaid VAT is refundable after verification by the relevant tax office if any of the following conditions are satisfied:

- The overpaid amount of VAT results from zero-rated sales.
- The overpaid amount of VAT results from the acquisition of fixed assets.
- The overpaid amount of VAT results from the cancellation of registration through a merger or consolidation, transfer of ownership, dissolution or cessation of business.
- Other special circumstances approved by the MOF exist.

## G. Recovery of VAT by nonestablished businesses

Effective from 1 July 2010, a foreign nonestablished entity may qualify for a refund of VAT incurred on the purchases of goods and services with respect to its participation in an exhibition or its engagement in “temporary commercial events” in Taiwan if the following conditions are met:

- The input VAT exceeds a certain amount in a year.
- Reciprocal treatment is given by the other foreign country under the same circumstances.

For purposes of the above rule, “temporary commercial events” refer to activities including traveling, training, inspection, market research, procurement, organizing or attending international conferences, tender invitations, information exchanges, marketing seminars and other business activities approved by the MOF that are relevant to the core or ancillary business operations of the companies.

## H. Invoicing

**VAT invoices and credit notes.** Business entities selling goods or services must issue Government Uniform Invoices (GUIs) to purchasers.

GUIs are generally printed and sold by the government. However, qualified business entities can apply to print their own invoices. The MOF prescribes the forms, items to be recorded and the uses for the invoices.

**Proof of exports.** The following are examples of documentation that may be used to substantiate exports:

- Goods exported: a photocopy of the international parcel receipt issued by the postal service, except for goods exported through Customs that are exempt from such documentation requirement
- For services rendered with respect to exports or services rendered in Taiwan but used outside of Taiwan: photocopy of the foreign-currency receipt
- For goods sold to entities located in bonded areas: document issued by Customs proving that such sale is an export or a copy of the GUI certified by the bonded purchaser

**Foreign-currency invoices.** GUIs must be issued in New Taiwan dollars. The foreign-currency can be noted as a remark on the GUIs.

## I. Business tax returns and payments

**Business tax returns.** Business tax returns must be filed for two-month periods by the 15th day following the end of the period. It is possible to apply for monthly VAT filings. Business tax returns must be accompanied with all relevant documentation and excess output VAT must be paid to the tax authorities before the returns are filed. Receipts of payments made must be filed with the returns.

### Penalties

*Returns and payment.* A business entity that fails to file the sales amount or the detailed list of uniform invoices used within the prescribed time limit may be liable to the following penalties:

- If the filing is past due for less than 30 days, a surcharge for late filing equal to 1% of the tax payable may be imposed for every two days overdue. The surcharge may not be less than NT\$1,200 and not more than NT\$12,000.
- If the filing is past due in excess of 30 days, a surcharge for nonfiling equal to 30% of the assessed tax payable may be imposed. The amount of this surcharge may not be less than NT\$3,000 and not more than NT\$30,000.

*Tax evasion.* A taxpayer may be subject to a fine for tax evasion ranging up to five times of the amount of tax evaded if any of the following circumstances exist:

- A business is conducted without an application for business registration being filed.
- The sales amount or detailed list of GUIs used is not submitted and the amount of business tax due is not paid within 30 days after the prescribed deadline.
- The sales amount is not reported or is underreported.
- The business is conducted after applying for deregistration or after suspension of business by the relevant collection authority.
- The amount of input tax is falsely reported.
- Business tax is not paid for purchase of services provided by foreign entities within 30 days after the prescribed deadline.
- Tax is evaded in another manner.

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## Tanzania

(Country code 255)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 July 1998
European Union (EU) member state	No
Member of the Southern African Customs Union	No

Administered by	Tanzania Revenue Authority (www.tra.go.tz)
VAT rates	
Standard	18%
Other	Zero-rated and exempt
VAT number format	00-111111-A
VAT return periods	Monthly
Thresholds	
Registration	TSHS 40 million in a year
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services in Tanzania by a taxable person
- Reverse-charge services received by a taxable person in Tanzania
- The importation of goods from outside Tanzania

## C. Who is liable

A registered person that makes supplies of taxable goods and services in Tanzania in the course of furtherance of business is liable for VAT.

VAT registration is required on the attainment of annual turnover of TSHS 40 million. A taxable person must notify the Tanzania Revenue Authority of its liability to register for VAT within 30 days of becoming liable.

**Cancellation of registration.** A taxable person who ceases to be liable for registration must notify the Commissioner in writing within 30 days after ceasing to become liable. A failure to make such notification is an offense punishable by a fine not exceeding TSHS 50,000.

If the Commissioner is satisfied with the notice and if the payment of all VAT due is made, the Commissioner cancels the registration, effective from the date of the notification.

**Divisions and branches.** If a business is carried on in divisions or branches, a taxable person may request the Commissioner to register the divisions or branches separately.

**Changes in business activities.** If the business activities of a taxable person change, the taxable person must notify the Commissioner within thirty days after the date of the change.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Tanzania. A foreign business is not required to register for VAT unless it has a permanent establishment in Tanzania. A permanent establishment of a foreign business must register for VAT if it makes taxable supplies of goods or services. For supplies made by other nonestablished businesses, registration is not required. A person importing goods or services from a nonresident must pay the Tanzanian VAT due.

**Late-registration penalties.** Traders that meet the registration threshold but do not register are liable for a fine of up to TSHS

200,000 or to imprisonment for a term not less than 2 months but not exceeding 12 months, or to both fine and imprisonment.

Notwithstanding any penalties imposed for late registration, a person is liable to pay interest on the VAT due.

#### **D. VAT rates**

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” refers to supplies of goods and services that are not liable to tax. Persons that make exempt supplies are not entitled to an input tax deduction.

In Tanzania, the following two rates of VAT currently apply:

- Standard rate: 18%
- Zero rate (0%)

The standard rate of VAT applies to most supplies of goods or services in Tanzania. A zero rate applies to exports and certain other supplies (see below).

The following tables list examples of exempt, zero-rated and special relief supplies of goods and services (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

Unprocessed agricultural products

Medical services

Finance and insurance services

Aircraft and aircraft engines

Agricultural services and spare parts for certain equipment such as power tillers and planters

Horticultural services

Chicken feed used in poultry farming

Raw materials used for making fishing nets (nylon fishing twine)

Transportation of persons by any means of conveyance other than air charter, taxi, cab, rental car or boat

Petroleum products

##### **Examples of goods and services taxable at 0%**

Exports of goods

Exports of taxable services

Supplies by local manufacturers of sacks, fishing nets, veterinary medicines, human medicines, mosquito coils and fertilizer distributors

##### **Examples of special relief supplies (taxable at 0%)**

Food supplies to children and orphanage care and schools provided by nongovernmental organizations

Importation by or supply to the Bank of Tanzania of goods or services that are to be solely used in the performance of its statutory functions

#### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” In Tanzania, the tax point is the earliest of the following events:

- The goods are physically removed from the supplier's control by the person receiving the supply.
- The services are rendered and performed.
- A tax invoice is issued with respect to the supply.
- Payment is received for all or part of the supply.

The Commissioner can determine other tax points in specific situations.

**Imports.** VAT on imported goods is charged and payable when the custom duty, tax or levy is payable in accordance with the Customs Law.

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied for business purposes. A taxable person claims input tax by deducting it from output tax, which is VAT charged on supplies made. Taxable persons must claim input tax within six months (effective from 1 July 2011) after incurring the expense.

Input tax includes VAT charged on goods and services purchased in Tanzania and VAT paid on imports of goods and services for which input tax is deductible.

**Nondeductible input tax.** VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered with respect to certain business expenses.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items of expenditure for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Purchases of noncommercial motor vehicles  
 Business entertainment  
 Tobacco  
 Amusement

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

Purchases of goods for furtherance of business  
 Payments for services, such as audit fees  
 Advertising  
 Consultancy fees  
 Accommodation

**Partial exemption.** VAT directly related to making exempt supplies is not recoverable. A registered person that makes both exempt and taxable supplies cannot recover VAT tax in full. This situation is referred to as "partial exemption."

Under the Tanzanian VAT law, if a taxable person supplies both taxable and exempt goods and services, only input tax attributable to taxable supplies may be recovered. The attribution requires the approval of the Commissioner. However, two methods described below may be used without prior approval.



The first method is the simple pro-rata method based on the value of taxable supplies compared with total supplies made. The second method is based on direct attribution of VAT incurred. The following are the principal aspects of this method:

- Input tax directly attributable to taxable goods purchased and sold in the same state is deductible in full.
- Input tax directly attributable to exempt outputs may not be deducted.
- Input tax that is not directly attributable to taxable goods purchased and sold in the same state or to exempt outputs is recoverable in part. The recoverable percentage is calculated using a simple pro-rata method based on the value of taxable supplies compared with total supplies made.

**Refunds.** A taxable person may claim a refund of the excess of input tax over output tax on supplies within a tax period. The Commissioner-General of the Tanzania Revenue Authority may grant a taxable person a refund within 30 days after the filing of a VAT refund claim. If excess credits arise in successive periods, the taxable person may apply to the Commissioner for refunds to be made monthly.

On application to the Commissioner, the refund claim may be offset against other tax liabilities.

Each VAT refund claim filed with the Commissioner must be approved and supported by a certificate of genuineness issued by an auditor registered with the National Board of Accountants and Auditors (NBAA).

Repayments are made if taxable goods are manufactured in or imported into Tanzania and if tax is paid in error or it is in the public interest to grant the refund. The filing of VAT refund claims can be made within a period of three years after the VAT return is submitted.

## G. Recovery of VAT by nonresidents

Tanzania does not refund VAT incurred by a foreign business unless it has a permanent establishment in Tanzania or it is registered for VAT in Tanzania. However, passengers disembarking outside Tanzania through designated airports can claim VAT refunds for goods with a minimum cost of TSHS 400,000.

## H. Invoicing

**VAT invoices and credit notes.** A supplier of taxable goods and services must issue a tax invoice to the purchaser at the time of supply or within 14 days after the time of supply.

Credit notes may be used to reduce the VAT charged on supplies of goods or services. Credit notes must show the same information as tax invoices.

**Proof of exports.** Goods exported from Tanzania are zero-rated. However, to qualify for zero rating, exports must be supported by evidence that proves the goods left Tanzania. Suitable evidence includes the following documents:

- A sales invoice
- A bill of lading, road manifest or airway bill
- Export permit
- In addition to the above, any other evidence requested by the Commissioner

**Foreign-currency invoices.** Foreign-currency invoices are treated in the same manner as invoices in local currency. The tax authorities do not require the use of a standard exchange rate to convert the value of foreign invoices into Tanzanian shillings. In practice, the tax authorities accept the rate used by the taxable person if the rate is within the range of prevailing market exchange rates.

## I. VAT returns and payment

**VAT returns.** The VAT tax period is one month. Returns must be filed by the last working day of the month after the end of the tax period. Payment of VAT is due in full on the same date. A nil return must be filed if no VAT is payable (either because the taxable person has made no supplies or because input tax exceeds output tax in the period).

If the normal submission date falls on a public holiday or a weekend, the VAT return must be submitted on the last working day before that day.

An electronic document is considered filed by a person and received by the Commissioner when a document registration number is created using the person's authentication code.

**Penalties and interest.** The late submission of a return is subject to a penalty of TSHS 50,000 or 1% of the tax payable for the tax period covered by the return, whichever is greater, and a further penalty of TSHS 100,000 or 2% of the tax payable for the tax period covered by the return, whichever is greater.

If any amount of tax, including penalties, remains unpaid after the due date, interest is imposed at the prevailing annual commercial bank lending rate of the Bank of Tanzania plus five percentage points.

Other penalties for VAT offenses include the following:

- Fraudulent evasion or recovery of tax: a penalty of twice the amount of tax involved or TSHS 2 million, whichever is greater, imprisonment for a term of 2 years, or both the fine and imprisonment
- Making false statements, producing false documents or providing false information: a penalty of up to TSHS 1 million, a term of imprisonment not exceeding 12 months, or both the fine and imprisonment
- Late application for registration: a penalty of up to TSHS 200,000, a term of imprisonment of at least 2 months but not exceeding 12 months, or both the fine and imprisonment
- Failure to issue a tax invoice: a penalty of up to TSHS 1 million, a term of imprisonment not exceeding 12 months, or both the fine and imprisonment

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## Thailand

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 1992
European Union (EU) member state	No
Administered by	Thai Revenue Department ( <a href="http://www.rd.go.th">http://www.rd.go.th</a> )
VAT rates	
Standard	7% (this rate will revert to 10%, effective from 1 October 2012, unless the reduction to a 7% rate is extended)
Other	Zero-rated and exempt
VAT number format	Same as tax identification number
VAT return periods	Monthly
Thresholds	
Registration	Annual revenue of THB 1,800,000
Recovery of VAT by nonestablished businesses (foreign legal entities)	No (unless the nonestablished business is registered for VAT in Thailand as a result of carrying on a business either in its own right or through an agent)

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services consumed in Thailand by a taxable person
- The importation of goods or services into Thailand
- The export of goods or services out of Thailand

**C. Who is liable**

A taxable person is any entity or person that falls into any of the following categories:

- A seller of goods in the course of a business or profession in Thailand
- A provider of services in the course of a business or profession in Thailand

- An importer of goods and services
- Any person deemed by the law to be a trader, such as a local agent of an overseas corporation that sells goods or provides services in Thailand

**VAT registration.** VAT registration must be made within 30 days after revenue exceeds THB 1,800,000, or before the commencement of business. An overseas trader is eligible to register for VAT only if it will do business in Thailand for at least one year, or at least three months if engaged in a government project funded by a foreign loan or foreign aid.

**Voluntary registration.** A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold (annual revenue of THB 1,800,000). A business may also register for VAT voluntarily in advance of making taxable supplies.

**Reverse charge.** If an overseas service provider or supplier of goods temporarily carries on a business in Thailand but is not registered as a Thai VAT operator or if such person provides services overseas for use in Thailand to a payer of service fees in Thailand, the customer for the goods or services in Thailand must self-assess the VAT due and remit it to the Thai tax authorities. Payment must be made by the 7th day of the month following the month of the payment of the income. If the customer for the goods or services is registered as a VAT operator in Thailand, it may recover the VAT paid by crediting it against the output VAT.

**Exemption from registration.** No exemption from VAT registration applies to businesses that carry on taxable activities. However, certain activities are exempt from VAT (see Section D).

**Deregistration.** A business that ceases operations must cancel its VAT registration by deregistering with the tax authorities within 15 days after the date of ceasing operations.

**Late-registration penalties.** Penalties are imposed for failure to register for VAT. The penalty is 200% of the VAT payable each month during the period of the failure to register for VAT.

## D. VAT rates

VAT in Thailand is currently levied at a rate of 7% on the value of goods sold or services consumed in Thailand. The VAT rate of 7% will revert to 10%, effective from 1 October 2012, unless the reduction to a 7% rate is extended.

VAT applies to all stages of production, distribution and sale, including the importation of tangible and intangible goods and services.

For the importation of goods from a seller located outside of Thailand (or outside of the Thai VAT regime), the importer must pay the VAT due to the customs authority, which collects the VAT on behalf of the Thai tax authority, at the time of importation.

The export of goods and services is eligible for a zero rate of VAT. To qualify as an export of services, services performed in Thailand must be used in a foreign country. If the services are

partially used in Thailand, the part of the services used in Thailand is subject to VAT at a rate of 7%.

The following activities are exempt from VAT:

- Sale of agriculture products and animal products (except canned foods)
- Sales of fertilizers, drugs or chemicals for caring for plants or animals, and insecticides or pesticides for plants or animals
- Sales of ground fishmeal and animal feeds
- Sales of newspapers, periodicals and textbooks
- Rendering of services in the fields of medicine, auditing or litigation
- Hospital services
- Domestic transportation and international transportation by land
- Leasing of immovable property
- Business subject to Specific Business Tax (SBT)

### **E. Time of supply**

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

The tax point for the supply of goods is the time of delivery unless one of the following events occurs before delivery:

- Ownership transfer
- Receipt of the payment
- Issuance of the tax invoice

The tax point for the supply of services is the receipt of the payment unless one of the following events occurs before delivery:

- Issuance of the tax invoice
- Use of the services by the service recipient or a third party

The tax point for the import of goods is the time of importation, which is the time of customs clearance.

The tax point for the export of goods is the time of payment of export duty or, if the goods are exempt from customs, the date on which the goods clear customs.

### **F. Recovery of VAT by taxable persons**

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

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

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

The following are items of expenditure for which input tax is not recoverable (this list is not exhaustive):

- Entertainment expenses or similar expenses
- Passenger cars (except for car sales or rental business)

- Goods or services relating to passenger cars such as gasoline and repairs (except for car sales or rental business)
- Construction of buildings sold or used for a non-VAT business within three years after completion

In addition, the following input tax is not recoverable:

- Input tax arising from certain types of business activities that are not subject to VAT
- Input tax shown on an abbreviated tax invoice or a tax invoice that bears signs of correction or alteration of the particulars required by law
- Input tax not substantiated by a tax invoice
- Input tax recorded in an incomplete tax invoice
- Input tax shown on a tax invoice issued by a person not authorized to do so

### G. Recovery of VAT by nonestablished businesses

VAT incurred by a nonestablished business (that is, an overseas legal entity) may be recovered only if the nonestablished business is registered as a VAT operator in Thailand. To register as a VAT operator in Thailand, the nonestablished business must be engaged in activities that allow it to generate tax invoices in Thailand. As a result, input tax can be matched to the output tax (see Section C) and the nonestablished business can prove that the input tax is relevant to its business operations in Thailand. A nonestablished business cannot register for VAT simply to claim input tax if it does not have any activities that generate income in Thailand.

### H. Invoicing

**Tax invoices and credit notes.** A Thai VAT operator is required to issue a tax invoice for all taxable supplies made, including exports. A tax invoice is necessary to support a claim for input tax deduction or a refund.

A tax credit note may be used to reduce the VAT charged and reclaimed on a supply. The credit note must reflect the reasons for its issuance as allowed by the VAT law. The credit note must be cross-referenced to the original tax invoice.

**Proof of exports.** An export of goods may be eligible for the zero rate of VAT if the goods are physically exported and if the export is supported by evidence confirming the departure of the goods from Thailand. The evidence required includes the following documents:

- Customs documentation
- Original invoice

**Foreign-currency invoices.** Tax invoices can be issued in a foreign currency if approval has been obtained from the tax authorities.

### I. VAT returns and payment

**VAT returns.** VAT returns are submitted monthly. A supplier of goods and services must collect VAT from the purchaser of the goods or the recipient of a service and remit it to the Thai tax authority by the 15th day of the month following the month in which the tax point is triggered (for example, the time of delivery, receipt of payment or issuance of an invoice; see Section E). For

reverse-charge services, the Thai service recipient is required to self-assess the VAT and remit it to the Thai tax authority by the 7th day of the month following the month in which the payment is made.

**Penalties.** A penalty of 100% of the tax shortfall is assessed for the late payment of VAT, plus a monthly surcharge of 1.5% of the tax shortfall (capped at 100% of the tax shortfall). However, if a taxable person does not receive a notice of call for examination, the penalty may be reduced to the following:

- 2% if the payment is made within 15 days after the due date
- 5% if the payment is made after 15 days but not later than 30 days after the due date
- 10% if the payment is made after 30 days but not later than 60 days after the due date
- 20% if the payment is made more than 60 days from the due date

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## Trinidad and Tobago

(Country code 1)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 1990
European Union (EU) member state	No
Administered by	Board of Inland Revenue Value Added Tax Administration Centre 20, St. Vincent Street Port-of-Spain Trinidad
VAT rates	
Standard	15%
Other	Zero-rated and exempt
VAT number format	999999 (6 digits)
VAT return periods	Two-monthly
Thresholds	
Registration	TT\$360,000
Recovery of VAT by nonestablished businesses	No

## **B. Scope of the tax**

VAT applies to commercial transactions undertaken by taxable persons in Trinidad and Tobago and to imports of goods.

## **C. Who is liable**

The Trinidad and Tobago VAT law imposes a registration requirement on any person that makes commercial supplies in Trinidad and Tobago and that has annual turnover exceeding TT\$360,000 a year.

A person that intends to make commercial supplies may apply for registration. However, the application must be supported by additional information indicating that the value of the person's commercial supplies will exceed TT\$360,000 a year. Suitable evidence includes incorporation documents, cash-flow projections for 12 months (the month and year to be included) that are signed and dated by a director or the company's accountant, and contracts showing evidence of commencement of business.

**Group registration.** VAT grouping is not allowed under the Trinidad and Tobago VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses and tax representatives.** A "nonestablished business" is a business that does not have a fixed establishment in Trinidad and Tobago. A nonestablished business that makes commercial supplies in Trinidad and Tobago must register for VAT if it meets the registration requirements. A branch of a foreign corporation is registered in the same manner as a resident taxable person.

A foreign individual or company that must register for VAT may need to appoint an agent as the foreigner's representative in matters relating to compliance under the VAT Act.

**Reverse charge.** No reverse-charge mechanism applies in Trinidad and Tobago.

**Late-registration penalties.** Summary conviction and penalties and interest are imposed for late registration for VAT and for other offenses (see Section I).

## **D. VAT rates**

The term "taxable supplies" refers to supplies of goods and prescribed services that are made in the course or furtherance of any business that is liable to VAT. Taxable supplies are referred to as "commercial supplies." Taxable supplies include supplies at the zero rate. Schedule 3 of the VAT law determines what constitutes a supply of goods or services. The term "prescribed services" means any services not listed as exempt services in Schedule 1 of the VAT law. The term "exempt supplies" refers to supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F).

In Trinidad and Tobago, the VAT rates are the standard rate of 15% and the zero rate (0%). The standard rate of 15% applies to all supplies of goods or services, unless a specific measure provides for the zero rate or an exemption.



The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Financial services  
 Medical services  
 Residential property rentals  
 Real estate brokerage  
 Public postal services  
 Prescribed bus and taxi services  
 Betting and gaming

#### **Examples of goods and services taxable at 0%**

Exported goods  
 Medicines  
 Water and sewerage services supplied by a public authority  
 Certain staple foods

### **E. Time of supply**

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

- The date of issuance of the invoice by the supplier
- The date of receipt of payment for the supply
- The date on which the goods are made available to the recipient or the services are performed

A taxable person must account for VAT in the VAT period in which the tax point occurs, regardless of whether payment is received. After a purchaser is registered for VAT, it may recover the VAT indicated on the tax invoice.

### **F. Recovery of VAT by taxable persons**

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

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

- Their supply or resupply as a taxable supply
- Their consumption or use (whether directly or indirectly, or wholly or partly) in producing goods or services for supply as a taxable supply
- Their consumption or use (whether directly or indirectly, or wholly or partly) with respect to a commercial enterprise

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

**Partial recovery.** The Trinidad and Tobago VAT law provides that if all the supplies made by a taxable person during a tax period

are commercial supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are commercial supplies, a partial recovery calculation is required. The following are the rules for the calculation of allowable input tax:

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

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

**Refunds.** If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the excess may be refunded. The refund claim must be submitted within 25 days after the end of the tax period. If this deadline is met and if the refund is unpaid after six months, the tax authorities must pay interest on the outstanding balance, at the rate of 1% per month or part of a month, chargeable from the day after the expiration of the period until the date on which the outstanding amount is satisfied.

## G. Recovery of VAT by nonestablished businesses

Foreign businesses that make commercial supplies in Trinidad and Tobago may register and recover tax with respect to their local operations in the same manner as resident businesses. However, Trinidad and Tobago does not refund VAT paid by foreign businesses that are not registered for VAT in the country.

## H. Invoicing

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

A credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note generally contains the same information as a VAT invoice.

**Exports.** VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that the goods have left Trinidad and Tobago.

**Foreign-currency invoices.** If a supply is made to a person outside of Trinidad and Tobago, the invoice may be issued in a foreign currency. However, in accounting for the tax payable, the taxable person must account for the tax in Trinidad and Tobago dollars. In converting the invoice, the exchange rate used must be the rate

at which the Central Bank of Trinidad and Tobago would have purchased that currency in the form of notes at the time of the supply.

## I. VAT returns and payment

**VAT returns.** VAT reporting periods are generally two months. However, the tax authorities may assign longer or shorter tax periods if they consider them appropriate. Returns must be completed and filed by the 25th day of the month following the tax period.

**Penalties.** Penalties are assessed for errors and omissions with respect to VAT accounting. A fine of TT\$500 is imposed for the late submission of a VAT return. In addition, a penalty of 8% and interest at the rate of 2% per month or part of a month is charged on late payments of VAT.

In addition to the above, the VAT Act provides for other penalties including a penalty of TT\$3,000, which is imposed for a failure to notify the tax authorities of changes relating to the registration.

Certain offenses may give rise to criminal penalties.

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## Tunisia

(Country code 216)

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Taxe sur la valeur ajoutée
Date introduced	2 June 1988
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.portail.finances.gov.tn">http://www.portail.finances.gov.tn</a> )
VAT rates	
Standard	18%
Reduced	6%/12%
Other	Exempt
VAT number format	1234567890
VAT return period	Monthly

### Thresholds

Registration for retail traders only TND 100,000

Recovery of VAT by nonestablished businesses Yes

## B. Scope of the tax

VAT is applicable to the following transactions:

- Supplies of goods and services made in Tunisia
- Imports of goods and services

Industrial activities are generally subject to VAT except for the production of agricultural and fish products. Other activities subject to VAT include professional services, wholesale trade (excluding foodstuffs), and retail trade (for traders that make annual turnover of TND 100,000 or more), excluding foods, medicine, pharmaceuticals and products subject to administrative approval tariffs.

## C. Who is liable

A taxable person is an individual or legal entity that is registered for VAT in Tunisia and any other entity that engages in independently taxable transactions other than import sales.

In addition, a person (individual or legal entity) that supplies goods or services for consideration as part of the person's business activities but is not required to register for VAT may opt for VAT registration if any of the following conditions are satisfied:

- It carries out operations that are not within the scope of VAT.
- It carries out export activities that are exempt from VAT.
- It supplies products or services that are exempt from VAT to persons subject to VAT.

**Group registration.** The Tunisian VAT law does not allow VAT grouping. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses.** Nonresident companies that do not have a permanent establishment in Tunisia but carry out taxable transactions are subject to VAT. Accordingly, Tunisian customers must withhold VAT on payments for goods and services supplied by nonresident entities. The nonresident must add Tunisian VAT to its invoice. The customer withholds the VAT amount, remits it to the Tunisian tax administration and pays the amount due for the goods and services, exclusive of VAT, to the foreign provider.

Nonestablished companies may register for VAT with the Tunisian tax administration. In such case, the VAT withholding procedure is not required.

## D. VAT rates

The following are the VAT rates in Tunisia:

- Standard rate: 18%
- Transport of goods (excluding agricultural and fish products), services rendered to hotels, services rendered by lawyers, tax advisors, other experts, and certain other supplies: 12%
- Activities carried out by doctors and analytical laboratories, materials and supplies for pharmaceutical products and certain other supplies: 6%

Supplies of certain goods and services are exempt from VAT. These supplies include, but are not limited to, school education, aircraft transport services and maritime transport. The appendices to the VAT Code specify the exempt transactions.

VAT may also be suspended. A special authorization from the tax administration is required to obtain a suspension from VAT for purchases. VAT suspension is available to entities engaged in exporting and, in certain circumstances, to entities engaged in activities described in the Investment Incentives Code. Entities subject to VAT may be entitled to VAT suspension on their local purchases of raw materials and equipment to be used in their projects realized abroad exceeding TND 3 million. VAT suspension may be obtained by requesting a VAT exemption certificate from the tax administration. This certificate may be issued annually or for certain transactions. A copy of the certificate is presented to the seller to ensure that the seller does not add VAT to the invoice. The tax administration approval is based on whether the company has the right to have such exemption and on whether the company's tax return filings for the different tax heads are up to date.

### **E. Time of supply**

The time when the taxable event is considered to have taken place and VAT becomes due is called the "time of supply" or "tax point."

The basic time of supply rules in Tunisia are summarized below.

**Goods.** The time of supply for the sale of goods is when the goods are delivered to the customer.

**Services.** The time of supply for services is when the service is rendered or when the payment is made (fully or partially) if the settlement is made before the completion of the service.

**Imported goods.** The time of supply for imported goods is when the goods are released from customs.

### **F. Recovery of VAT by taxable persons**

A taxpayer may recover VAT with respect to purchases of goods and services that are used for business activities and contribute effectively to the realization of taxable transactions. The VAT deduction is made on the basis of a valid invoice, customs document or withholding tax certificate.

Companies partially subject to VAT deduct VAT based on the following rules:

- Full deduction is allowed for VAT on purchases used exclusively in a business activity that is subject to VAT.
- No deduction of VAT is allowed for purchases used exclusively in a business activity that is not subject to VAT.
- Deduction on a proportionate basis is allowed for purchases used in both a business activity subject to VAT and a business activity not subject to VAT.

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for business purposes and that are considered to be nondeductible expenses for corporate tax purposes (for example, goods acquired for private use by an entrepreneur). In addition, VAT paid on purchases and rentals of small cars that are used for business transport and on

expenses incurred on the operation and maintenance of these cars is not deductible. However, input tax on small cars used by car rental and taxi-hire businesses is deductible.

**Refunds.** VAT liability (output VAT) is computed by multiplying all taxable sales by the applicable VAT rate. The enterprise subtracts the total VAT paid on purchases of goods (input VAT) from output VAT and pays the net amount to the tax administration. If the input VAT exceeds the output VAT, the resulting amount is refunded after a request is made to the tax administration and after a tax audit has been completed by the tax administration.

### G. Recovery of VAT by nonestablished businesses

Nonresident traders that do not have a permanent establishment in Tunisia but are registered with the VAT authority are allowed to recover VAT incurred. To register with the VAT authority, the nonresident taxpayer must be performing a contract in Tunisia.

Nonresident traders that are not registered with the VAT authority may not recover VAT incurred. In addition, such traders are subject to the VAT withholding system described in Section C.

### H. Invoicing

**VAT invoices and credit notes.** Tunisian taxable persons must provide VAT invoices for all taxable supplies and services, including exports, made to other taxable persons. Recipients of supplies must retain copies of invoices.

A VAT credit note may not be used to reduce VAT charged and reclaimed on a supply of goods or services. Instead, the initial transaction must be voided and a new VAT invoice must be issued for the correction of genuine mistakes.

**Proof of exports.** Tunisian VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, the exported supplies must be documented by a customs declaration proving that the goods have left Tunisia. In addition, persons subject to VAT that are primarily or exclusively engaged in activities relating to exports benefit from suspended VAT on their purchases of goods and services required for the production of exported goods.

**Foreign-currency invoices.** A VAT invoice for transactions performed between two resident entities must be issued in Tunisian dinars. If one or both of the parties are nonresident, the VAT invoice may be issued in a foreign currency.

### I. VAT returns and payment

**VAT returns.** Tunisian VAT returns must be filed on a monthly basis. Returns must be filed by the 28th day of the following month for companies and by the 15th day of the following month for natural persons.

**Penalties.** For late filing of VAT returns or underpayments of VAT, penalties are imposed at a rate of 0.5% per month or fraction of a month for which the return or payment is late.

The following are other penalties related to VAT:

- 1.25% per month or fraction of a month for underpayments of VAT resulting from a tax audit
- 0.5% per month or fraction of a month in certain other cases

# Turkey

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Katma deger vergisi (KDV)
Date introduced	2 November 1984
European Union (EU) member state	No
Administered by	Revenue Administration ( <a href="http://www.gib.gov.tr">http://www.gib.gov.tr</a> )
VAT rates	
Standard	18%
Reduced	1%/8%
Other	Full exemption and partial exemption
VAT number format	1234567890 (tax number format)
VAT return periods	Monthly
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	Limited to repair, fuel and spare parts' expenses of nonresident international transporters, and fair, exhibition participation expenses of nonestablished businesses, if their country of residence is on mutual terms with Turkey

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Turkey by a taxable person in the course of performing commercial, industrial, agricultural or independent professional activities
- Services received in Turkey or benefited from in Turkey by a taxable person or any other person responsible for payment of the tax
- Goods and services imported into Turkey

### C. Who is liable

A taxable person is any person or legal entity that is registered for VAT in Turkey. Any entity that has a fixed place of business or regularly carries out commercial or professional operations in Turkey must register in Turkey.

No VAT registration threshold applies. VAT registration is granted automatically by the tax office when a business registers for corporate and income tax purposes. It is necessary to have a fixed place of business to register for tax registration. A fixed place of business includes a residence, place of business, registered head office or business center in Turkey. Only entities that are registered for tax may import goods into Turkey.

**Group registration.** VAT grouping is not permitted under Turkish VAT law. Legal entities that are closely connected must register for VAT separately. Related parties are regarded as separate for tax purposes.

**Nonestablished businesses.** A “nonestablished business” is a business that has no fixed establishment in Turkey. A nonestablished business may not register for VAT only. If a Turkish taxable person receives services from an entity that does not have a fixed establishment in Turkey, VAT is accounted for using the reverse-charge mechanism (that is, the Turkish recipient of the service must self-assess VAT).

**Reverse charge.** The reverse charge is a form of self-assessment for VAT through which the recipient of services accounts for the tax. The reverse charge applies if certain services subject to Turkish VAT are made by a person that is not resident in Turkey or that does not have a permanent establishment or headquarters in Turkey. The Ministry of Finance is authorized to determine the parties responsible for the payment of VAT. The recipient does not need to be a taxable person under Turkish VAT law. The recipient may be an individual or an institution.

The reverse charge applies to the following services performed or used in Turkey:

- Transfers of copyrights, patents, licenses, trademarks, know-how and similar rights
- Import commissions
- Services of independent professionals, such as engineering, consulting, data processing and provision of information
- Interest payments made to foreign entities other than banks and financial institutions
- Rental services
- Transfer or assignment of the right to use capacity for the transmission, emission, or reception of signals, writings, images, sounds, or information of any nature by wire, radio, optical or other electromagnetic systems
- Other services not specified in this list

*Penalties for reverse-charge supplies.* Penalties apply to several VAT offenses, including failure to account for VAT under the reverse-charge mechanism. The penalty equals 100% of the tax that has not been accounted for. The interest applies from the due date of the tax payment to the date on which the penalty notice is issued.



## D. VAT rates

The term “taxable supplies” refers to supplies of goods and services subject to VAT. The term “exempt supplies” refers to supplies of goods and services not subject to VAT. “Partially exempt” supplies (as specified in Articles 16 and 17 of the VAT Law) do not give rise to a right of input tax deduction (see Section F). Some supplies are classified as “fully exempt,” which means that no VAT is chargeable, but the supplier may recover related input tax. These supplies include exports of goods and related services.

In Turkey, the following are the VAT rates:

- Standard rate: 18%
- Reduced rates: 1% and 8%

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

The following tables list examples of partially exempt supplies of goods and services, fully exempt supplies of goods and services, and supplies of goods and services that are taxed at the reduced VAT rates.

### **Examples of partially exempt supplies of goods and services**

Leasing immovable property by an individual

Financial transactions

Supplies to certain cultural bodies

Supplies by and to certain governmental bodies

Water for agriculture

The supply of unprocessed gold, foreign-exchange money, stocks and bonds, duty stamps, scrap metal, plastic and certain other items

Storage services performed at bonded warehouses or temporary storage places

Delivery of goods or performance of services in free-trade zones

### **Examples of fully exempt with credit supplies of goods and services**

Exports of goods and services

Services rendered at marinas and airports for marine and air conveyances

International transport

Supplies to persons engaged in petroleum exploration

Supplies of goods to investment certificate holders

Sales to the Directorate of the Defense Industry

### **Examples of goods and services taxable at 1%**

Newspapers and magazines

Basic foodstuffs

Used passenger cars

### **Examples of goods and services taxable at 8%**

Foodstuffs

Books

Pharmaceuticals

Medical products

Some construction equipment

Admission charges for cinemas, theaters, and operas

**Excise tax.** An excise tax is imposed on the import, manufacture and first acquisition of a range of goods. The following are the groups of products subject to excise tax:

- Petroleum, gas and derivatives
- Automobiles and other vehicles
- Tobacco and specific beverages
- Luxury products

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” In Turkey, the basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed. However, if the supplier issues an invoice before the time of supply, VAT applies to the extent that the supply is covered by the invoice.

**Prepayments.** A prepayment or deposit does not result in a taxable transaction.

**Continuous supplies of services.** If services are received continuously but payment is made periodically, the tax is declared every month. If the invoice is issued before the declaration period, the tax point is the date of the invoice.

**Goods sent on approval.** The tax point for goods sent on approval is when the customer accepts the goods and a supply is made.

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

### **F. Recovery of VAT by taxable persons**

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

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

If the input VAT exceeds the output VAT, the excess amount is generally not refunded but can be carried forward to subsequent VAT periods (see *Refunds*).

A valid invoice or customs document must generally accompany a claim for input tax. The right of deduction may be exercised in the tax period in which the purchase documents are entered into the recipient’s books of account, but only during the calendar year in which the taxable event takes place.

**Nondeductible input tax.** Input tax is not recoverable if it is charged on purchases of goods and services that are not used for business purposes and are considered to be nondeductible expenses for corporate tax purposes. In addition, input tax may not be recovered for partially exempt transactions.

**Partial exemption.** An input tax deduction is granted for taxable supplies and for supplies that are exempt with credit. An input tax

deduction is not granted for partially exempt supplies. If a taxable person makes both taxable and partially exempt supplies, it may recover only input tax related to supplies that are taxable or fully exempt.

**Refunds.** If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in the same period, a refund is not generally granted. In most cases, the taxable person must carry forward the excess amount to a future VAT period. Refunds of the excess are available only for the following:

- VAT related to supplies of goods subject to a reduced rate
- VAT related to supplies of goods and services that are exempt with credit

The amount of the VAT refund may be credited against other tax liabilities.

### G. Recovery of VAT by nonestablished businesses

Turkey does not refund VAT incurred by nonestablished businesses, except for international transporters and participants in fairs and exhibitions, subject to certain requirements.

### H. Invoicing

**VAT invoices and credit notes.** Turkish taxable persons must provide invoices for all taxable supplies and services. Taxpayer recipients of the supplies and services must retain copies of the invoices.

Credit notes may not be used to reduce VAT charged and reclaimed on supplies of goods or services.

**Proof of export.** Turkish VAT is not charged on exports. However, to qualify as VAT-free, export supplies must be supported by evidence that confirms the goods have left Turkey. The evidence required consists of the customs declaration, which clearly identifies the exporter, the customer, the goods and the export destination, and invoice information.

**Foreign-currency invoices.** An invoice issued for a domestic sale must be issued in Turkish lira. The invoice may also show the invoiced amount in a foreign currency if the TL equivalents are stated.

An invoice issued for an export sale may be issued in a foreign currency. The amount of the invoice must be recorded in the supplier's books together with the exchange rate on the date of the transaction.

### I. VAT returns and payment

**VAT returns.** In Turkey, the VAT return period is monthly. Returns must be submitted electronically through the Internet by the 24th day of the month following the end of the return period. Payment in full must be made by the 26th day of the same month.

Return liabilities must be paid in Turkish lira.

**Penalties.** No specific penalties relate to VAT offenses. Penalties are prescribed by the Tax Procedures Code, which defines various acts of noncompliance with the tax laws.

The penalty equaling 100% of the amount that has not been accounted for is imposed. Delay interest is currently charged at 1.95% of the tax, calculated monthly. The interest is calculated beginning on the date on which the tax payment is due and ending on the date on which the penalty notice is declared.

## Uganda

(Country code 256)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 July 1996
European Union (EU) member state	No
Member of the Southern African Customs Union	No
Administered by	Uganda Revenue Authority (www.ura.go.ug)
VAT rates	
Standard rate	18%
Others	Zero rate and exempt
VAT number format	10 digit tax identification number in the form 1234567890
VAT return periods	Monthly by the 15th day of following month
Thresholds	
Registration	Annual amount of U Sh 50 million
Recovery of VAT by nonestablished businesses	No

### B. Scope of the tax

VAT applies to the following transactions:

- Taxable supplies of goods and services made in Uganda by taxable persons
- Imports of goods other than exempt imports
- Supplies of imported services

### C. Who is liable

The persons liable for VAT in Uganda vary according to the type of supply. The following persons are liable for VAT in Uganda:

- Taxable supply in Uganda: the taxable person making the supply
- Import of goods: the importer
- Import of services: recipient of the imported services

The annual registration threshold is U Sh 50 million.

A person that is not already a registered person must apply to be registered in accordance with the VAT Act by the following dates:

- Within 20 days after the end of any period of 3 calendar months if during that period the person made taxable supplies, the value of which exclusive of any tax exceeded U Sh 12,500,000
- At the beginning of any period of 3 calendar months if reasonable grounds exist to expect that the total value of taxable supplies, exclusive of any tax, to be made by the person during the period will exceed U Sh 12,500,000

**Group registration.** The Uganda VAT Act does not allow group registration.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed place of abode or business in Uganda.

**VAT representatives for nonresidents.** The Commissioner General may require a nonresident person to apply for VAT registration. A nonresident person that is required to apply for registration but does not have a fixed place of business in Uganda must take the following actions:

- Appoint a VAT representative in Uganda
- Lodge a security with the Commissioner General if required by the Commissioner General

If a nonresident person does not appoint a VAT representative within 30 days after being required to apply for registration, the Commissioner General may appoint a VAT representative for the nonresident person.

The VAT representative of a nonresident person must be a person ordinarily residing in Uganda. The representative has the responsibility of doing everything required of the nonresident under the VAT Act and is jointly and severally liable for the payment of all taxes, fines, penalties, and interest imposed on the nonresident under the VAT Act.

The registration of a VAT representative is in the name of the nonresident person.

A person may be a VAT representative for more than one nonresident person. In such case, the person must have a separate registration for each nonresident person.

The Commissioner General may prescribe the procedure and requirements for the appointment of a VAT representative and the responsibilities of the representative.

**Late-registration penalties.** A penalty of up to U Sh 500,000 is imposed on a person that meets the turnover threshold but fails to apply for registration.

**D. VAT rates**

The term “taxable supply” refers to a supply of goods or services, other than an exempt supply, made by a taxable person for consideration in the course of his or her business activities.

The following are the VAT rates in Uganda:

- Standard rate: 18%
- Zero rate (0%)
- Exempt

The standard rate of VAT generally applies to taxable supplies of goods or services. The zero rate applies to exports.

The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

**Examples of exempt supplies of goods and services**

Unprocessed foodstuffs, unprocessed agricultural products and livestock

Postage stamps

Financial services

Insurance services

Unimproved land

Leasing immovable property, other than leasing of commercial premises

Leasing for parking or storing cars or other vehicles

Leasing of hotel or holiday accommodation

Leasing for a period not exceeding three months

Leasing of service apartments

Education services

Veterinary, medical, dental, and nursing services

Social welfare services

Betting, lotteries and games of chance

Supply of goods as part of a transfer of a business as a going concern by one taxable person to another taxable person

Burial and cremation services

Supply of precious metals and other valuables to the Bank of Uganda for the State Treasury

Passenger transportation services (other than tour and travel operators)

Petroleum fuels subject to excise duty (motor spirit, kerosene and gas oil), spirit-type jet fuel, kerosene-type jet fuel and residual oils for use in thermal power generation to the national grid

Dental, medical and veterinary equipment

Feeds for poultry and livestock

Machinery used for processing of agricultural or dairy products

Photosensitive semiconductor devices, including photovoltaic devices, regardless of whether they are assembled in modules or made into panels

Light-emitting diodes

Solar water heaters, solar refrigerators and solar cookers

Accommodation in tourist lodges and hotels outside the Kampala District

Computers, desktop printers, computer parts and accessories (falling under headings 84.71, 84.73 and Harmonized System (HS) Code 8443.32.00 of the harmonized coding system)

Computer software and software licenses

Lifejackets, life-saving gear, headgear and speed governors

Mobile toilets and Ekoloo toilets made from polyethylene

Supply of mosquito nets, insecticides and acaricides

**Examples of supplies of goods and services taxable at 0%**

Exports of goods or services from Uganda

International transport of goods or passengers and tickets for their transport

Drugs and medicines

Educational materials and printing services for educational materials

Seeds, fertilizers, pesticides, and hoes

Cereals that are grown, milled or produced in Uganda

Machinery, tools and implements suitable for use only in agriculture

Milk, including milk treated in any manner to preserve it

Installation of mobile toilets, Ekoloo toilets, and components made from polythene, effective from 1 July 2004

Sanitary towels and tampons and inputs for their manufacture

Leased aircraft, aircraft engines, spare engines, spare parts for aircraft and aircraft maintenance equipment

**E. Time of supply**

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

The following are the rules for the time of supply:

- If goods are applied for a person’s own use, the time of supply is the date on which the goods or services are first applied to the person’s own use.
- If the goods or services are supplied as a gift, the time of supply is the date on which ownership in the goods passes or the performance of the service is completed.
- In all other cases, the time of supply is the earliest of the following dates:
  - The goods are delivered or made available, or the performance of the service is completed.
  - The payment for the goods or services is made.
  - A tax invoice is issued.

If goods are supplied under a rental agreement or if goods or services are supplied under an agreement or law that provides for periodic payments, the goods or services are treated as successively supplied for successive parts of the period of the agreement or supplied as determined by that law, and each successive supply occurs on the earlier of the date on which payment is due or received.

**F. Recovery of VAT by taxable persons**

A credit is allowed to the taxable person for the tax payable with respect to taxable supplies made to that person during the tax period and all imports of goods made by that person during the tax period, if the supply or import is for use in the business of the taxable person.

On registration, a credit is allowed to a taxable person for input tax paid or payable with respect to taxable supplies of goods, including capital assets, made to the person, and imports of goods, including capital assets, made by the person before registration, if the all of the following conditions are satisfied:

- The supply or import was for use in the business of the taxable person.
- The goods are on hand at the date of registration.
- The supply or import occurred not more than six months before the registration date.

**Nondeductible input tax.** VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for certain business expenses.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for purposes of making a taxable supply.

**Examples of items for which input tax is nondeductible**

Taxable supply or import of a passenger automobile and the repair and maintenance of the automobile, including spare parts  
Entertainment (provision of food, beverages, tobacco, accommodation, amusement, recreation, or hospitality of any kind)

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

A supply or import of a passenger automobile and the repair and maintenance of the automobile, including spare parts, if the automobile is acquired by the taxable person exclusively for the purpose of making a taxable supply of that automobile in the ordinary course of a continuous and regular business of selling, dealing in or hiring of passenger automobiles

Entertainment if the taxable person is in the business of providing entertainment

Supplies of meals or refreshments by employers to their employees in premises operated by the employers or on the employers' behalf, solely for the benefit of the employees

Ten percent of the input tax with respect to telephone services

**Partial exemption.** If a taxable supply to, or an import of goods by, a taxable person is partly for a business use and partly for another use, the amount of the input tax allowed as a credit is the part of the input tax that relates to the business use.

If the percentage of the total amount of taxable supplies to the total amount of all supplies made by the taxable person during the period (other than the supply of goods as part of the transfer of a business as a going concern) is less than 5%, the taxable person may not credit any input tax for the period.

If the percentage of the total amount of taxable supplies to the total amount of all supplies made by the taxable person during the period (other than the supply of goods as part of the transfer of a business as a going concern) is more than 95%, the taxable person may credit all input tax for the period.



The Commissioner General may approve a proposal by a taxable person for the apportionment of input tax credit when the taxable person makes both taxable and exempt supplies.

**Refunds.** If, for a tax period, a taxable person's input tax credit exceeds the person's liability for tax for that period, the Commissioner General must refund the excess to the person within one month after the due date for the return for the tax period to which the excess relates, or within one month of the date when the return was filed if the return was not filed by the due date.

Notwithstanding the above, if the taxable person's input credit exceeds his or her liability for tax for that period by less than U Sh 5 million the Commissioner General may offset the excess amount against the future liability of the taxable person, except in the case of an investment trader or person providing mainly zero-rated supplies. In addition, with the consent of the taxable person, if the taxable person's input credit exceeds his or her liability for tax for that period by U Sh 5 million or more, the Commissioner General may offset the excess amount against the future liability of the taxable person, or apply the excess in reduction of any other tax not in dispute that is due from the taxpayer.

A claim for a refund must be made in a return within three years after the end of the tax period in which tax was overpaid.

### **G. Recovery of VAT by nonresidents**

Uganda does not refund VAT incurred by a foreign business, unless the foreign business has a permanent establishment in Uganda and is registered for VAT in Uganda. However, effective from 1 July 2011 the Commissioner General may appoint a VAT representative for a nonresident who should file and account for VAT on the nonresident's behalf.

### **H. Invoicing**

**VAT invoices and credit notes.** A tax invoice must contain the following particulars:

- The words "tax invoice" written in a prominent place
- The commercial name, address, place of business, and the tax identification number of the taxable person making the supply
- The commercial name, address, place of business, and the tax identification number of the recipient of the taxable supply
- The individualized serial number and the date on which the tax invoice is issued
- A description of the goods or services supplied and the date on which the supply is made
- The quantity or volume of the goods or services supplied
- The tax rate for each category of goods and services described in the invoice
- The total amount of tax charged, the consideration for the supply exclusive of tax and the consideration inclusive of tax

A credit note must contain the following particulars:

- The words "credit note" in a prominent place
- The commercial name, address, place of business, and the tax identification and VAT registration numbers of the taxable person making the supply

- The commercial name, address, place of business, and the tax identification and VAT registration numbers of the recipient of the taxable supply
- The date on which the credit note was issued
- Tax rate
- Taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference
- A brief explanation of the circumstances resulting in the issuance of the credit note
- Sufficient information to identify the taxable supply to which the credit note relates

**Proof of exports.** Goods that are supplied by a registered taxpayer to a person in another country that are delivered by a registered taxpayer to a port of exit for export may be invoiced at the zero rate if the registered taxpayer obtains documentary proof and if the goods are removed from Uganda within 30 days of delivery to a port of exit.

The Commissioner General may require that goods for export specified in a notice in the *Uganda Gazette* be distinctively labeled by the registered taxpayer. The Commissioner General will issue guidelines to specify the color, size, and type of labels.

For an export transaction to qualify for the zero rate, a registered taxpayer must show as proof of export the following:

- A copy of the bill of entry or export certified by the customs authorities
- A copy of the invoice issued to the foreign purchaser with tax shown at the zero rate
- Evidence sufficient to satisfy the Commissioner General that the goods have been exported, in the form of an order from, or signed contract with, a foreign purchaser, or transport documentation that identifies the goods such as transit order or consignment note, copy of bill of lading, copy of airway bill or copy of transit document

If services are supplied by a registered taxpayer to a person outside Uganda, the services qualify for a zero rate only if the taxpayer can provide evidence that the services are used or consumed outside Uganda. This evidence can be in the form of a contract with a foreign purchaser and must clearly indicate that the place of use or consumption of the service is outside Uganda or that the service is provided for a building or premises outside Uganda.

**Foreign-currency invoices.** Foreign-currency invoices are treated in the same manner as local-currency invoices. However, the tax authorities require that for purposes of accounting for output VAT and input VAT, the exchange rate prescribed by the tax authorities for that tax period is used.

## I. VAT returns and payment

**VAT returns.** The VAT tax period is one month. Returns must be filed by the 15th day after the end of the tax period. Payment is due in full by the same date. A “nil” return must be filed if no VAT is payable (either because the taxable person does not make any supplies or input tax exceeds output tax in the period).

If the normal filing date falls on a public holiday or on a weekend, the VAT return must be submitted on the last working day before that day.

VAT returns are now being submitted online following the introduction of the e-tax system.

**Penalties.** The late submission of a return is subject to a penalty of U Sh 200,000 or an interest charge at 2% compounded for the period the return is outstanding, whichever is higher.

A person who fails to pay tax imposed before the due date is liable for a penal tax on the unpaid tax at 2% compounded.

A person is liable to pay penal tax equal to double the amount of tax due, refund or an offset claim if the person knowingly or recklessly makes a statement or declaration to an official that is false or misleading regarding a material item or omits from a statement made to an officer any matter or item without which the statement is materially misleading and if the tax properly payable by the person exceeds the tax that was assessed based on the false or misleading information, the amount of the refund claimed is false or the person submitted a return with an incorrect offset claim.

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## Ukraine

(Country code 380)

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Local name	Podatok na dodanu vartist (PDV)
Date introduced	1 January 1992
European Union (EU) member state	No
Administered by	State Tax Service of Ukraine ( <a href="http://www.sta.gov.ua">http://www.sta.gov.ua</a> )
VAT rates	
Standard	20% (17%, effective from 1 January 2014)
Other	Zero-rated and exempt
VAT number format	Tax identification number (TIN); the TIN has 12 digits for legal entities and permanent establishments of nonresidents included in the Unified State Register of

	Enterprises and Organizations of Ukraine, 10 digits for private entrepreneurs and 9 digits for entities paying tax from a joint activity without establishing a legal entity, investors under product-sharing agreements and representative offices of nonresidents that do not have an identification number in the Unified State Register of Enterprises and Organizations of Ukraine
VAT return periods	Monthly (quarterly for certain groups of taxpayers)
Thresholds	
Registration	
Persons other than private entrepreneurs using the simplified taxation system (Voluntary registration is also available, subject to conditions.)	Taxable supplies in excess of UAH 300,000 during the preceding 12 calendar months
Recovery of VAT by nonestablished businesses	No

## B. Scope of the tax

VAT applies to the following transactions:

- Supply of goods in the customs territory of Ukraine including the transfer of title to pledged property to the creditor, transfer of title to goods under a commodity loan and transfer of a financial lease object to a lessee
- Supply of services if the place of supply is the customs territory of Ukraine
- Import or re-import of goods and ancillary services into Ukraine
- Export or re-export of goods and ancillary services from Ukraine
- Supply of services with respect to the international transportation of passengers, luggage and shipment of cargo by railway, automobile, sea and air transport

The following transactions fall outside the scope of VAT (the list is not exhaustive and conditions may apply):

- Most banking services
- Insurance and reinsurance services and services of securities' traders
- Transfer of property with respect to pledges or operational leases
- Mergers and acquisitions

## C. Who is liable

**Taxpayers.** A VAT taxpayer is any legal entity, individual or representative office of a nonresident that meets any of the following conditions:

- The person is registered as a VAT payer or is subject to mandatory registration.
- The person imports goods into Ukraine in amounts subject to taxation (provided such person is liable for payment of taxes on the import of goods).

- The person maintains accounting under joint activity (JA) arrangements.
- The person performs asset management.
- The person disposes of seized, abandoned or unclaimed property as well as property inherited or transferred to the state (regardless of threshold and tax status of such person).
- The person is liable to administer tax with respect to services supplied by railway transportation companies.

If an importer is not registered as a VAT payer and imports goods in amounts subject to tax, it pays VAT during customs clearance without registration.

If a nonresident entity (including a permanent establishment of a nonresident that has not registered for VAT) supplies services with a place of supply in the customs territory of Ukraine, the service recipient must accrue and pay VAT to the treasury.

**Tax registration.** A legal entity, individual (except for a private entrepreneur using the simplified taxation system) or representative office of a nonresident must register as a VAT payer if its taxable supplies exceeded UAH 300,000 (net of VAT) during the preceding 12 calendar months.

A person that does not reach the threshold may still opt for voluntary VAT registration if it satisfies either of the following conditions:

- Its supplies to other VAT payers constituted at least 50% of its total supplies during the last 12 months.
- The person's charter capital or the balance-sheet value of its assets exceeds UAH 300,000.

**Group registration.** VAT group registration is not allowed under the Ukrainian Tax Code.

**Foreign legal entities (nonestablished businesses).** In general, VAT registration of the nonestablished business is not possible. If a nonresident falls under mandatory VAT registration requirements or wishes to opt for voluntary VAT registration, it must first establish business presence in Ukraine.

No VAT recovery mechanism is available for nonestablished businesses.

**Late-registration penalties.** Late registration or violation of other tax registration requirements may trigger a fine of UAH 170 for self-employed persons and UAH 510 for the legal entities or JA tax agents. For a repeated violation, the amount of the fine increases to UAH 340 and UAH 1,020, respectively.

If the tax authorities determine that late registration caused tax understatement and reassesses the taxpayer's tax liability, general fines for tax understatement apply. The fines are imposed at the following percentages of the understated tax liability:

- 25% for the first violation
- 50% for a repeated violation

An interest penalty may also apply.

In addition, the taxpayer is not eligible for a VAT credit or refund with respect to input VAT incurred before VAT registration.

## D. VAT rates

In Ukraine, the following VAT rates apply:

- Standard rate: 20% (reduced to 17%, effective from 1 January 2014)
- Zero rate (0%)

The standard rate of VAT applies to all supplies of goods and services falling within the scope of VAT unless the law provides a zero rate or VAT exemption for a specific transaction.

The following tables list examples of exempt supplies of goods and services and examples of goods and services that are taxed at the zero rate (these lists are not exhaustive).

### **Examples of exempt supplies of goods and services (conditions apply)**

Healthcare and rehabilitation services

Supplies of medicines registered in Ukraine

Supplies of baby nutrition

Educational services

Charity

Supply of land plots (except for those located under real estate objects and included in their value)

Supplies of housing (except for the first supply)

Supplies of periodical printed mass media (newspapers and journals) and books

Religious and funeral services

Supplies to embassies, consulates and representations of international organizations (for their own needs)

Imports of cultural items produced 50 or more years ago

Disposals by banks and financial institutions of property pledged by non-VAT payers

Sales or purchases by banks of liabilities on deposits

Imports of natural gas

Imports of energy-saving equipment and materials

Exports and domestic supplies of certain types of crops

### **Examples of goods and services taxable at 0%**

Exports of goods and related services

International transportation of passengers, luggage and shipments of cargo

Processing and repairs of imported movable property that is subsequently exported from Ukraine

## E. Place of supply

In general, supplies of goods and services in the customs territory of Ukraine are within the scope of Ukrainian VAT.

**Place of supply of goods.** The following goods are deemed to be supplied in Ukraine:

- Goods located in Ukraine at the moment of their supply if they are not shipped, transported, assembled or installed
- Goods located in Ukraine at the moment when shipment or transportation begins
- Goods assembled or installed in Ukraine if such assembly or installation is performed by the seller or on its behalf

**Place of supply of services.** The following are the rules for determining the place of supply of services:

- Services related to movable property (for example, repairs and services auxiliary to transportation), services in the areas of culture, art, education, science, sport and entertainment, organization of training courses and seminars and certain other services: the place of their actual supply
- Services related to immovable property: actual location of the immovable property
- Consulting, engineering, legal, accounting, audit, secondment, advertising, forwarding, information technology, data processing, telecommunication, broadcasting and certain other services: the place where the service recipient is incorporated
- Other services: the place where the supplier is registered

## F. Time of supply

The Ukrainian VAT laws do not contain the concept of “time of supply.” Instead, the Tax Code contains detailed rules with respect to the time for recording VAT liabilities and recognizing VAT credits.

**VAT liability.** Under the general “first event” rule, VAT liability arises on the occurrence of the first of the following events:

- The date on which goods or services are dispatched or rendered
- The date on which payment is received with respect to a supply of goods or rendering of services

Special rules apply to certain transactions, including the following:

- For the import of goods, VAT liability arises on the filing of the customs declaration for customs clearance.
- For the import of services, VAT liability arises on payment or execution of the act of acceptance, whichever occurs first.
- For long-term agreements, VAT liability arises on the delivery of the work results.
- For financial leasing, VAT liability arises on the transfer of the lease object to the lessee.

**VAT credit.** Under the “first event” rule for VAT credit, the right to VAT credit arises on occurrence of the first of the following events (provided other conditions are met):

- The date on which the taxpayer makes the payment for goods or services
- The date on which the taxpayer receives the goods or services as confirmed in the VAT invoice

Special rules include the following:

- For the import of goods, the right to VAT credit arises on the payment (accrual) of VAT on the filing of the customs declaration for the customs clearance.
- For the import of services, the right to VAT credit arises on the payment or accrual of VAT liability in the VAT return for the preceding reporting period.
- For long-term agreements, the right to VAT credit arises on the receipt of the work results (execution of the acts of work acceptance).
- For financial leasing, the right to VAT credit arises on the receipt of the lease object by the lessee.

**Reverse-charge mechanism.** The reverse-charge mechanism applies if a nonresident entity (including a permanent establishment

of the nonresident that has not registered for VAT) supplies services in the customs territory of Ukraine.

In such case, the service recipient must accrue and pay VAT to the treasury. The service recipient accrues VAT liability on the payment for the services or the execution of the act of acceptance, whichever occurs first. The service recipient may record a VAT credit in the next reporting period if certain other conditions are met.

### G. Recovery of VAT by taxpayers

**VAT credit.** In general, VAT credit is available only for registered VAT payers with respect to input VAT paid in connection with the acquisition of goods or services intended for use in taxable transactions in the course of the taxpayer's business activities.

A VAT payer may claim VAT credit with respect to the following transactions:

- Purchases of goods and services (including imports)
- Purchases of fixed assets (including imports)
- Receipts of services supplied by nonresidents in the customs territory of Ukraine
- Imports of noncurrent assets into the customs territory of Ukraine under lease agreements

A taxpayer must be able to confirm a VAT credit with a VAT invoice or a customs declaration.

If a VAT payer failed to claim a VAT credit in the reporting period, it may claim a VAT credit during the 365 calendar days beginning with the date of the issuance of the VAT invoice.

A VAT credit is recognized regardless of whether goods or services or fixed assets were used in taxable transactions in the reporting period. However, if a taxpayer claims a VAT credit and in the future begins using fixed assets, goods or services in non-taxable or nonbusiness transactions or converts the fixed assets into nonproductive assets, the fixed assets are deemed to be sold at their balance sheet value, the goods or services are deemed to be sold at their acquisition price, and the taxpayer must accrue VAT liabilities.

**Nonrecoverable VAT (full and partial).** A VAT credit is not available if goods (services) are intended to be used in transactions that are not VAT-able or VAT exempt. However, taxpayers may deduct such input VAT for corporate profit tax purposes if certain conditions are met.

If the taxpayer carries on both VAT-able and non-VAT-able transactions, the available VAT credit must be determined on a pro-rata basis. The pro-rata coefficient is generally based on the percentage of taxable supplies to total supplies in the preceding calendar year.

**Refunds.** VAT due to the budget is calculated as a positive difference between VAT liability (output VAT collected from the customers with respect to sales of goods and services) and VAT credit.

If a taxpayer has a negative difference, the difference may be used to decrease the tax debt or may be carried forward as a tax



credit to the next reporting period. If in the next reporting period, the net VAT result is again negative, the taxpayer may claim a tax refund. Alternatively, the taxpayer may choose to use the negative difference to offset VAT liabilities in future reporting periods.

The right to a VAT refund is available only with respect to the part of a negative VAT result that is equal to the amount of input VAT actually paid to suppliers or to the State Budget of Ukraine (for the purchase of services from a nonresident, the amount of VAT liability reported in the tax return).

A taxpayer, other than a taxpayer that accrues VAT credit on construction or acquisition of fixed assets, is not eligible for a VAT refund if it meets either of the following conditions:

- It has been registered as a VAT payer for less than 12 calendar months before filing the claim for a refund.
- Its volume of taxable supplies in the preceding 12 months was less than the amount claimed for refund.

Within 30 days after a taxpayer submits a VAT return and application for refund, the tax authorities perform a desk audit to check the data in the return. If grounds exist, the tax authorities may perform a nonscheduled tax audit of the taxpayer within the following 30 calendar days. Within five days after completion of the tax audit, the tax authorities must file to the State Treasury of Ukraine an opinion indicating the amount due for refund. The State Treasury of Ukraine must transfer funds to the taxpayer's bank account within five days after receipt of the opinion.

The Ukrainian Tax Code provides for the possibility of an automatic VAT refund. Under this procedure, the tax authorities must complete the desk audit within 20 calendar days and subsequently submit their opinion to the State Treasury within 3 business days. The State Treasury must transfer funds within 3 banking days on receipt of the opinion.

A VAT payer should meet certain criteria to be eligible for an automatic VAT refund, including the following:

- It is not in the bankruptcy process and is registered in the Unified State Register of Enterprises and Organizations of Ukraine.
- It performs transactions taxable at the 0% VAT rate and the amount of such transactions represented at least 40% of its supplies for the preceding 12 months.
- The amount of discrepancies in its data compared to suppliers' tax invoices in the preceding quarter does not exceed 10% of the claimed VAT refund.
- The average salary for its employees for four consecutive quarters exceeds 2.5 times the minimum salary.
- In each of the last four quarters, it met one of the following conditions:
  - It had more than 20 employees.
  - The residual balance value of its fixed assets exceeded the VAT refund amount.
  - The corporate profit tax burden was higher than the average for the industry.
- It does not have a tax debt.

**Penalty for late refund.** Under the Tax Code, an amount of VAT that is not refunded on time is considered to be a debt of the State

Revenue. An interest penalty at rate of 120% of the discounted National Bank of Ukraine (NBU) rate applies to this debt amount until it is settled.

## H. Recovery of VAT by nonestablished businesses

The Ukrainian tax law does not allow nonresident entities that do not have business presence in Ukraine to recover VAT.

## I. Invoicing

**VAT invoices.** A Ukrainian VAT payer (seller) must provide a VAT invoice to the buyer. The VAT invoice must contain all of the necessary elements and must bear a stamp and signature. The seller must issue separate VAT invoices for VAT-exempt and VAT-able supplies. A VAT invoice is issued in two copies; the original is provided to the buyer and the copy is kept by the seller.

Ukrainian VAT payers (sellers) must register their VAT invoices in the Unified Register of VAT Invoices if the amount of VAT specified in one VAT invoice exceeds UAH 10,000, and they must register their VAT invoices for domestic supplies of excisable or imported goods, regardless of the value of supply.

If a VAT invoice does not contain all of the necessary elements, is improperly completed or is not registered in the Unified Register, the buyer does not have the right to a VAT credit, but the seller must report VAT liability.

In some cases, the buyer has the right to a VAT credit without the VAT invoice on the basis of the following documents:

- Transport ticket, or an invoice for hotel or communication services
- Checks for goods or services for an amount not exceeding UAH 200 per day
- Customs cargo declaration for the import of goods

**Foreign-currency invoices.** VAT invoices are issued in Ukrainian currency, which is the hryvnia (UAH).

## J. VAT returns and payment

**VAT returns.** In general, taxpayers file VAT returns monthly. During a transition period from 1 April 2011 until 1 January 2016, taxpayers that enjoy tax holidays and apply a 0% corporate profit tax rate may opt to file VAT returns quarterly.

Taxpayers must file monthly VAT returns within 20 days after the last day of the reporting month and quarterly VAT returns within 40 days after the last day of the reporting quarter.

Large and medium-sized taxpayers must submit tax returns electronically. Other taxpayers have the option of filing tax returns electronically, or by mail or courier.

If the taxpayer files a tax return by mail, it must send it no later than 10 days before the deadline.

Tax is payable within 10 days after the filing deadline.

**Penalties.** The Ukrainian tax law provides for the financial sanctions described below for violations of the VAT law.

The following are the penalties for failure to file or late filing:

- UAH 170 for each violation
- UAH 1,020 for repeated violations within a year

If a failure to properly file the tax return resulted in understatement of tax liabilities, additional fines apply.

Penalties are imposed for the overstatement of a VAT refund or the understatement of VAT liabilities if the tax authorities increase the amount of VAT liabilities or decrease the VAT refund. The penalties are imposed at the following percentages of the reassessed tax liability or overstated VAT refund:

- 25% if the violation was made the first time within a 1,095-day period
- 50% if the violation was repeated within a 1,095-day period

It is not clear whether an overstatement of negative VAT result (that does not lead to tax understatement or the overstatement of VAT refund) is subject to a fine.

The following are the penalties for the understatement of tax liabilities if the taxpayer corrects the mistake made in the VAT return:

- 3% of the understatement of tax liabilities if it submits an adjustment calculation
- 5% of the understatement of tax liabilities if it corrects the mistake in the tax return for the next reporting period
- 5% of the understatement for the failure to submit an adjustment calculation

The following penalties are imposed for late payments:

- 10% of unpaid liabilities if the period of delay is up to 30 days
- 20% of unpaid liabilities if the period of delay exceeds 30 days

In addition to the above, the interest penalty may apply for tax understatement and late payment.

The interest penalty for late payment applies from the first business day on which the tax liability becomes overdue (that is, after expiration of the deadline for settling the tax liability indicated in the tax return or in the tax-notification decision issued by the tax authorities). The interest penalty for tax understatement applies to the whole period of understatement of the tax liability even though the taxpayer may have recourse to the administrative or court appeal procedure.

The rate of the interest penalty equals 120% of the yearly NBU discount rate. The decision on the choice of the effective NBU discount rate is made based on the grounds for applying the penalty.

In addition to financial sanctions, administrative or criminal liability may apply.

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 April 1973
European Union (EU) member state	Yes

Administered by	H.M. Revenue & Customs ( <a href="http://www.hmrc.gov.uk">http://www.hmrc.gov.uk</a> )
VAT rates	
Standard	20%
Reduced	5%
Other	Zero-rated, exempt and exempt with credit
VAT number format	GB 999.9999.99
VAT return periods	
Quarterly	General rule
Monthly	If requested by a business that receives regular repayments
Annual	If requested by a small business
Thresholds	
Registration	£73,000 (effective from 1 April 2011)
Deregistration	£71,000 (effective from 1 April 2011)
Distance selling Intra-Community acquisitions	£70,000 £73,000 (effective from 1 April 2011)
Recovery of VAT by nonestablished businesses	Yes

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods or services made in the United Kingdom by a taxable person
- The intra-Community acquisition of goods from another EU member state by a taxable person (see the chapter on the EU, page 208)
- Reverse-charge services received by a taxable person in the United Kingdom
- The importation of goods from outside the EU, regardless of the status of the importer

For VAT purposes, the United Kingdom consists of Great Britain, the Isle of Man and Northern Ireland. It does not include the Channel Islands or Gibraltar.

## C. Who is liable

A “taxable person” is any entity or person that is required to be registered for VAT. The term includes any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions or distance sales in the United Kingdom in the course of a business in excess of the turnover thresholds.

Effective from 1 April 2011, the VAT registration threshold is £73,000; this threshold generally increases annually. The VAT registration threshold currently applies to both U.K. domestic and nonestablished businesses. However, effective from 1 December 2012, the VAT registration threshold will be removed for businesses not established in the United Kingdom (that is, a nil registration threshold will apply). As a result, any nonestablished business that makes a taxable supply (not covered by an existing

VAT simplification) in the United Kingdom will be required to register for VAT, regardless of the value of the supply. The distance selling threshold is £70,000; this threshold is set by EU law and does not generally increase from year to year.

In October 2012, the U.K. VAT authorities will introduce an enhanced online service for U.K. VAT registration (and deregistration) applications and for notifying changes to registration details (such as a change of address). This will provide incentives for businesses to use online services by offering quicker and more accurate processing.

**Exemption from registration.** A taxable person whose turnover is wholly or primarily zero-rated (see Section D) may request exemption from registration.

**Voluntary registration.** A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A business may also register for VAT voluntarily in advance of making taxable supplies. In this case, the business needs to demonstrate to the U.K. VAT authorities it has the firm intention to make taxable supplies.

**Group registration.** Corporate bodies that are under “common control” and are established or have a fixed establishment in the United Kingdom may apply to register as a VAT group. A VAT group is treated as a single taxable person. The group members share a single VAT number and submit a single VAT return. No VAT is charged on supplies made between group members. Group members are jointly and severally liable for all VAT liabilities.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in the United Kingdom. A nonestablished business must register for VAT if it makes any of the following supplies in the United Kingdom, in excess of the annual thresholds (however, see next paragraph):

- Goods located in the United Kingdom at the time of supply
- Intra-Community acquisitions of goods (see the chapter on the EU, page 208)
- Distance sales of goods to U.K. residents who are not taxable persons (see the chapter on the EU, page 208)
- Services to which the reverse charge (see *Reverse charge*) does not apply

Effective from 1 December 2012, with the exception of distance sales, the registration threshold will be removed for nonestablished businesses (that is, a nil registration threshold will apply).

A nonestablished business that registers for VAT may normally do so from its place of business outside the United Kingdom. The application form (VAT 1) must be sent to the following address:

Non-Established Taxable Persons Unit  
HM Revenue & Customs  
Ruby House  
8 Ruby Place  
Aberdeen AB10 1ZP  
Scotland  
Telephone: +44 1224 404 818

**Reverse charge.** If a nonestablished business supplies services to a U.K. taxable person but does not register for VAT, the taxable person may be required to account for the VAT due under reverse-charge accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax (that is, VAT on allowable purchases) depending on the taxable person's partial exemption status (see Section F). This measure does not apply in all circumstances. For example, it applies only if the place of supply of the services is in the United Kingdom.

**Tax representatives.** A nonestablished business may choose to appoint a tax representative or agent to act on its behalf in relation to U.K. VAT matters.

The U.K. VAT authorities may require that a nonestablished person appoint a tax representative. However, this condition may be imposed only if the business is established in a country outside the EU that has not agreed on mutual assistance provisions with the United Kingdom.

**Deregistration.** A taxable person that ceases to be eligible for VAT registration must deregister.

A taxable person may also request deregistration if its taxable turnover drops below the deregistration threshold (£71,000, effective from 1 April 2011) or if its taxable turnover is wholly or primarily zero-rated (see Section D). However, deregistration is not compulsory in these circumstances.

**Late-registration penalties.** A penalty is assessed for late VAT registration. This penalty is calculated as a percentage of the VAT due (output tax less input tax) for the "relevant period." The "relevant period" begins on the date on which the business is required to be registered and ends on the date on which the U.K. VAT authorities became fully aware of this liability.

If the liability to register for VAT arises before 1 April 2010, the penalty rate that applies depends on the length of the relevant period. If this period is less than nine months, the penalty rate is 5% of the VAT due. If the period is between 9 and 18 months, the penalty rate increases to 10% of the VAT due. For businesses that register more than 18 months late, the penalty rate is 15% of the VAT due. The minimum penalty is £50.

If the liability to register arises after 1 April 2010, the penalty rate that applies may range from 30% (in most cases) to 100% (with respect to deliberate and concealed acts) of the VAT due. However, measures exist for the reduction of such penalties if the business discloses the failure to register to the U.K. VAT authorities. The degree of mitigation of the penalties depends on the "quality" of the disclosure.

Penalties apply to a range of other offenses (see Section I).

## D. VAT rates

In the United Kingdom, the term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term "exempt supplies" refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F). In addition,

some supplies are classified as “exempt with credit.” Exempt with credit supplies are effectively treated as if they were zero-rated, even though they are not within the scope of VAT. This means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include services supplied to taxable persons in the EU and to customers outside the EU.

In the United Kingdom, the following are the VAT rates:

- Standard rate: 20%
- Reduced rate: 5%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a zero rate or a reduced rate of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Betting and gaming  
 Education  
 Finance  
 Insurance  
 Land (in most cases)  
 Postal services (in most cases)  
 Human blood products  
 Medical services

#### **Examples of goods and services taxable at 0%**

Books, newspapers and periodicals  
 Certain foodstuffs  
 Children’s clothing and footwear  
 Drugs and medicines supplied by prescription  
 New housing  
 Transport services  
 Exports of goods and related services

#### **Examples of goods and services taxable at 5%**

Fuel and power supplied to domestic users and charities  
 Installation of energy-saving materials  
 Building materials for certain residential conversions  
 Sanitary protection products  
 Children’s car seats  
 Smoking cessation products  
 Grant-funded installation of heating appliances and qualifying security goods

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” The “basic” tax point under U.K. law is the point when the goods are either removed from the supplier’s premises or made available to the customer, or when the services are performed.



The basic tax point may be overridden by the creation of what is termed an “actual” tax point. An “actual” tax point occurs in the following circumstances:

- Before the basic tax point: if the supplier issues a VAT invoice or receives payment with respect to a supply, a tax point is created to the extent covered by the invoice or payment (whichever is earlier).
- After the basic tax point: if an invoice is issued within 14 days after the basic tax point, the date of the invoice becomes the tax point. Taxable persons may request permission to extend this 14-day invoicing tax point up to a maximum of 30 days after the basic tax point.

**Deposits and prepayments.** The receipt of a deposit or prepayment normally creates an actual tax point if the amount is paid in the expectation that it will form part of the total payment for a particular supply. A tax point is created only to the extent of the payment received.

**Intra-Community acquisitions.** The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the goods are removed (that is, sent to, or taken away by, the customer). However, if the supplier issues an invoice before this date, the tax point is when the invoice is issued.

**Intra-Community supplies of goods.** For intra-Community supplies of goods, the time of supply is the earlier of the 15th day of the month following the month in which the goods are removed or the date of issuance of a VAT invoice.

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

**Goods sent on approval or for sale or return.** The tax point for goods sent on approval or sale or return is the earlier of the date on which the goods are accepted by the customer or 12 months after the removal of the goods from the supplier. However, if a VAT invoice is issued before these dates, the invoice creates an actual tax point, up to the amount invoiced.

**Continuous supplies of services.** If services are supplied continuously and payment is made periodically, a tax point is created each time a payment is made or a VAT invoice is issued, whichever occurs earlier.

**Reverse-charge services.** The tax point for reverse-charge services is governed primarily by when the service is performed, and a distinction is made between single and continuous supplies. For single supplies, the tax point is the earlier of the date of completion of the service or the date of payment for the service. For continuous supplies, the tax point is the end of each billing or payment period (or the date of payment, if earlier). For continuous supplies that are not subject to billing or payment periods, the tax point is 31 December each year unless a payment has been made before that date, in which case the payment creates a tax point.

## F. Recovery of VAT by taxable persons

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

Input tax includes VAT charged on goods and services supplied in the United Kingdom, VAT paid on imports of goods into the United Kingdom and VAT self-assessed on the intra-Community acquisition of goods and reverse-charge services (see the chapter on the EU, page 208).

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

Special rules apply to the recovery of input tax on expenditure incurred before registration and after deregistration.

**Nondeductible input tax.** Input tax may be recovered only on purchases of goods and services that are used for business purposes (this excludes, for example, goods acquired for private use by an entrepreneur). However, input tax may not be recovered on some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

### Examples of items for which input tax is nondeductible

Purchase of a car (unless the car is available exclusively for business use)

50% of VAT incurred on the rental or lease of a car used for mixed business and private purposes

Private expenditure

Business entertainment and hospitality (except if provided to overseas customers)

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

Conferences, exhibitions, training and seminars

Taxi services

Restaurant expenses for employees

Accommodation

Motoring expenses and fuel for business purposes

Business use of a home telephone

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

A U.K. taxable person that makes both taxable and exempt supplies may calculate the amount of input tax it may recover in several ways. The standard partial exemption calculation method consists of the following two-stage calculation:

- The first stage identifies the input tax that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible, while input tax

directly related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as taxable supplies for these purposes.

- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be allocated to taxable supplies and recovered. The amount of recoverable VAT is determined by making a pro-rata calculation based on the respective values of taxable and exempt supplies made.

If the standard calculation method gives an unfair or distortive result, a special calculation method may be agreed to with the U.K. VAT authorities. In some cases, the U.K. VAT authorities may impose the use of a special calculation method.

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

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

- Land and buildings and related property expenditure valued at £250,000 or more: adjusted over a period of 10 years
- Computer hardware valued at £50,000 or more: adjusted over a period of five years
- Ships and aircraft valued at £50,000 or more: adjusted over a period of five years

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

**Refunds.** If the amount of VAT recoverable exceeds the amount of VAT payable in a period, a refund may be claimed. This is done automatically by submitting the periodic VAT return. A taxable person that receives regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

### **G. Recovery of VAT by nonestablished businesses**

The United Kingdom refunds VAT incurred by businesses that are neither established nor registered for VAT in the United Kingdom. Nonestablished businesses may reclaim VAT to the same extent as U.K. VAT-registered businesses. VAT incurred in the Isle of Man may also be refunded through this procedure. For the general VAT refund rules, see the chapter on the EU, page 208.

**EU businesses.** An electronic VAT refund procedure has been introduced across the EU to replace the old paper-based (EU 8th

Directive) system. EU businesses must now submit their claims for U.K. VAT through an electronic interface to their local VAT authorities, rather than directly to the U.K. VAT authorities.

Refund claims are based on calendar years. Claims must be submitted within nine months after the end of the calendar year in which the VAT is incurred (that is, by 30 September). Claims must be accompanied by the appropriate information (see the chapter on the EU, page 208).

**Non-EU businesses.** For businesses established outside the EU, VAT refunds are made under the terms of the EU 13th Directive. The United Kingdom does not generally exclude businesses from any country from eligibility.

For businesses established outside the EU, VAT refunds are based on a “prescribed year” running from 1 July to 30 June. Applications for a VAT refund based on the EU 13th Directive must be submitted within six months after the end of the prescribed year in which the VAT was incurred (that is, before 1 January).

Claims must be submitted in English and must be accompanied by the appropriate documentation (see the chapter on the EU, page 208). The minimum claim period is three months, while the maximum claim period is one prescribed year. The minimum claim for a period of less than a year is £130. Where a claim covers the full 12 months of the prescribed year, the minimum VAT claim is £16.

Applications for refunds of U.K. VAT must be sent to the following address:

HM Revenue & Customs  
VAT Overseas Repayments Unit  
Foyle House  
P.O. Box 34  
Duncreggan Road  
Londonderry BT48 7AE  
Northern Ireland

## H. Invoicing

**VAT invoices and credit notes.** A U.K. taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies (see the chapter on the EU, page 208). Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is required to support a claim for input tax deduction.

A VAT credit note may be used to reduce the amount of VAT charged on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply. A credit note must be issued within one month after the mistake or overcharge is discovered. The credit note should also refer to the number and date of the original VAT invoice.

**Proof of exports and intra-Community supplies.** U.K. VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods, except distance sales (see the chapter on the

EU, page 208). However, to qualify for VAT zero-rating, exports and intra-Community supplies must be supported by evidence proving that the goods have left the United Kingdom.

Acceptable proof includes the following documentation:

- For exports, official customs documentation and commercial documentation, such as consignment notes and airway bills
- For intra-Community supplies, a range of commercial documentation, such as customer orders, sales invoices, transport documentation and packing lists

In all cases, the evidence must clearly identify the supplier, the customer, the goods and the destination. The evidence must be obtained within three months after the time of supply and be retained for at least six years.

**Foreign-currency invoices.** If a VAT invoice is issued in a foreign currency, the pounds sterling equivalent of the VAT amount must also be stated on the invoice. Suppliers may use any of the following acceptable exchange rates:

- The U.K. market selling rate at the time of the supply (rates published in U.K. national newspapers are acceptable as evidence of the rates in force at the relevant time)
- The U.K. VAT authorities' published period rates of exchange
- Any other acceptable rate that is used for commercial purposes (and not covered by the two alternatives above), subject to agreement in writing with the U.K. VAT authorities

## I. VAT returns and payment

**VAT returns.** VAT returns are generally submitted quarterly. VAT return quarters are staggered into three cycles to ease the U.K. VAT authorities' administration. The following are the cycles:

- March, June, September and December
- February, May, August and November
- January, April, July and October

Each taxable person is notified at the time of registration of the return cycle it must use. However, the U.K. VAT authorities will consider a request to use VAT return periods that correspond with a taxable person's financial year. In addition, a taxable person whose accounting dates are not based on calendar months may request permission to adopt nonstandard tax periods.

Taxable persons that receive regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

VAT returns must generally be submitted by the last day of the month following the end of the return period. Payment is also generally due by this date. However, in most cases, taxable persons that pay their VAT return liabilities electronically have an additional seven calendar days after the normal due date in which to file their returns and make payment (businesses that use the annual accounting scheme or are required to make payments on account do not qualify for this seven-day extension).

VAT returns must be completed in pounds sterling, but return liabilities may be paid in pounds sterling or euros.

**Electronic filing.** Online filing of VAT returns and electronic payment of VAT is required for all existing businesses with VAT-exclusive annual turnover in excess of £100,000 and for any

businesses that newly apply to register for VAT (regardless of their level of annual turnover). For VAT periods beginning on or after 1 April 2012, all remaining U.K. VAT-registered businesses (businesses that registered for VAT before 1 April 2010 with VAT-exclusive annual turnover below £100,000) will also be required to file their VAT returns online (using the U.K. VAT authorities' electronic VAT service) and pay any VAT due electronically.

**Payments on account.** Taxable persons that have annual VAT liability of greater than £2,300,000 must make payments on account, which are interim payments made at the end of the second and third months of each VAT quarter. The VAT return is due at the normal time together with a balancing payment for the period. The level of the payments on account is generally calculated as  $\frac{1}{24}$  of the taxable person's VAT liability for the preceding 12 months. Electronic transfers must be used for all payments on account.

**Cash accounting.** Businesses with annual taxable turnover of less than £1,350,000 may apply to use cash accounting. Under the cash-accounting scheme, businesses account for output tax and reclaim input tax on the basis of payments received and made instead of on the basis of invoices issued and received.

**Annual accounting.** Businesses with annual taxable turnover of less than £1,350,000 may apply to complete an annual VAT return. Businesses that use annual accounting must make either three quarterly or nine monthly interim VAT payments. Any balancing payment must be made with the annual return. The annual return is due on the last day of the second month following the end of the taxable person's annual VAT accounting period.

**Special accounting.** A special accounting scheme (known as the Flat Rate Scheme) exists for small businesses with VAT-exclusive annual taxable turnover of up to £150,000. Under the scheme, eligible businesses calculate the amount of VAT due based on a fixed percentage of their total (VAT-inclusive) turnover. The percentages range from 4% to 14.5%, depending on the trade sector of the business.

Other special accounting schemes exist for retailers, businesses trading in second-hand goods, tour operators, gold traders and farmers.

**Reverse-charge accounting for domestic supplies of mobile phones and computer chips.** The U.K. government has suffered heavy losses of VAT arising from "missing trader" VAT fraud. This fraud arises when small, high-value goods are moved around the EU VAT system and a fraudulent party absconds without paying the VAT due. An antiavoidance measure requires purchasers of certain designated goods (broadly, mobile phones and computer chips) to account for the VAT due under a domestic reverse-charge accounting procedure, rather than paying the VAT to the supplier. Additional notification and reporting requirements also apply to these transactions.

**Reverse-charge accounting for domestic supplies of emissions allowances.** Purchasers of specified emissions allowances must account for VAT under a domestic reverse-charge accounting procedure, rather than paying VAT to the supplier. No additional notification or reporting requirements apply to these transactions.

**Penalties for late payment of VAT.** If a VAT return or payment is late, the taxable person is in default and is issued a Surcharge Liability Notice. The notice specifies a period of 12 months from the last day of the VAT period under default, which is known as the “surcharge period.” Any further default within this period may trigger a penalty and extend the surcharge period. The penalty is calculated as a percentage of the “outstanding VAT.” A business has “outstanding VAT” for a period if some or all of the VAT due for that period remains unpaid as of the normal due date.

The following percentage penalty rates apply:

- For the first default in the surcharge period: a penalty of 2% of the outstanding VAT
- For the second default in the surcharge period: a penalty of 5% of the outstanding VAT
- For the third default in the surcharge period: a penalty of 10% of the outstanding VAT
- For the fourth and any subsequent defaults in the surcharge period: a penalty of 15% of the outstanding VAT (for each further default)

The U.K. VAT authorities do not impose a penalty at the 2% or 5% rates for an amount of less than £400. For the 10% and 15% rates, the minimum penalty is £30.

If payment is made on time but the return is submitted late, no penalty is imposed. However, a default is recorded and the surcharge period is extended.

In March 2010, the U.K. VAT authorities announced that they will be implementing a new penalty regime for late filing of VAT returns and late payment of VAT. Under the new regime, late filing of VAT returns and late payment of VAT will be treated separately, but the penalty models will be broadly similar. At the time of writing, it had not yet been confirmed when the new penalty regime for late filing of VAT returns and late payment of VAT will be implemented, but the U.K. VAT authorities have indicated that this may take a few years.

**Penalties for errors made on VAT returns.** The old “misdeclaration penalty” regime applies to errors made on VAT returns if the return was due for submission before 1 April 2009. Under the old regime, errors (or “misdeclarations”) are subject to an objective mathematical test to determine whether a penalty arises. The penalty rate is 15% of the VAT due. No penalty applies if a “reasonable excuse” exists for the error. Also, penalties can be reduced if mitigating circumstances that fall short of a reasonable excuse exist.

A penalty regime applies to inaccuracies on VAT returns if the return is due for submission on or after 1 April 2009. Under the penalty regime, if a business makes an error on a VAT return despite taking “reasonable care,” it should not be liable to a penalty. Otherwise, the penalty rate depends on the behavior giving rise to the error (rather than the size of the error) and may range from 30% (for “careless” errors) to 100% (for “deliberate and concealed” acts) of the VAT due. However, provisions exist for the reduction of such penalties if the business makes an unprompted disclosure to the U.K. VAT authorities. The degree of mitigation also depends on the “quality” of the disclosure.

## J. EU declarations

**INTRASTAT.** A U.K. taxable person that trades in goods with other EU countries must complete statistical reports, known as INTRASTAT declarations, if the value of its sales or purchases exceeds certain thresholds. Separate reports exist for intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches).

For the 2012 calendar year, the threshold for INTRASTAT Arrivals is £600,000 and the threshold for INTRASTAT Dispatches is £250,000.

A taxable person whose intra-Community trade in goods exceeds £16 million (for either Arrivals or Dispatches) must also provide additional information concerning the terms of delivery.

INTRASTAT declarations must be submitted on a monthly basis and completed in pounds sterling. Currently, the submission deadline is the last day of the month following the end of the reference period (normally a calendar month). However, effective from 1 April 2012, the deadline for the submission of INTRASTAT declarations will be brought forward from the last day to the 21st day of the month following the end of the reference period. Consequently, INTRASTAT declarations for the March 2012 period will be due on 21 April 2012. In addition, effective from 1 April 2012, all INTRASTAT declarations will be required to be filed electronically.

Penalties may be imposed if a taxable person's INTRASTAT declarations are persistently late, missing or inaccurate.

**EU Sales Lists.** All businesses registered for VAT must complete EU Sales Lists (ESLs) if they make either or both of the following types of supplies:

- Intra-Community supplies of goods to business customers in other EU member states
- Intra-Community supplies of services to business customers in other EU member states, if the place of supply of the services is the customer's member state and if the customer is required to account for the VAT due on the supply under the reverse-charge procedure

The information required to be provided on ESLs includes the country code and VAT registration number of the businesses to which the supplies were made, the total value of those supplies in pounds sterling and an indicator to identify a supply as a supply of services.

The ESL reporting period for intra-Community supplies of goods is a calendar month for supplies over £35,000 per quarter. The ESL reporting period for intra-Community supplies of services is a calendar quarter, but businesses may instead choose a reporting period of a calendar month (for example, to align with the ESL reporting period for intra-Community supplies of goods).

The following are the deadlines for submitting ESLs to the U.K. VAT authorities, for all frequencies of submission with respect to both goods and services:



- For paper ESLs: 14 days from the end of the reporting period
- For electronic ESL submissions: 21 days from the end of the reporting period

Penalties may be assessed for the late submission of ESLs and for material inaccuracies in ESLs.

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## United States

(Country code 1)

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**Washington, D.C.**

**GMT -5**

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## A. General

The United States does not impose a national-level sales or value-added tax. Instead, sales taxes and complementary use taxes are imposed and administered at the state (subnational) and local (substate) levels. Currently, 45 of the 50 U.S. states, the District of Columbia and Puerto Rico impose some form of sales and use tax. Only Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose such taxes. Taking into account both the state-level and local-level aspects of sales and use taxes, more than 7,000 taxing jurisdictions exist in the United States.

The laws, rules, and procedures with respect to sales and use taxes are not uniform among these jurisdictions, and issues such as tax-base calculation, taxability of specific items, and tax rates vary considerably among the jurisdictions. Sales and use taxes are generally imposed on transactions involving the sale of tangible personal property. However, several states also tax certain specified services and digital property (for example, electronically delivered software).

## B. Tax rates

Sales and use tax rates vary among the states. For each state that imposes a sales and use tax, one uniform rate is imposed at the state level. However, several states impose a lower rate on certain items, such as food, clothing, selected services, and medicine, instead of exemptions. Excluding additional local sales and use taxes, state-level sales and use tax rates range from 2.9% (Colorado) to 7.25% (California).

Local rates, if authorized within a state, may vary significantly. In addition, a single situs within a state may lie within several

different local taxing jurisdictions. For example, sales made in one store may be subject to city, county, and district taxes, in addition to the state-level tax, while sales made from a different store may be subject only to a county tax, in addition to the state-level tax. As a result, it is possible that two identical transactions within the same state may be taxed at substantially different rates based solely on the local sourcing of the transaction. In certain states, local rates can exceed 4% and constitute a greater portion of the total sales tax due than the state-level rate.

Not all states authorize the imposition of local sales and use taxes. Others require rate uniformity across the state.

### **C. Imposition of tax**

Sales taxes are transaction-based taxes imposed on intrastate retail transactions (sales made between a buyer and seller located within the same state), and are calculated as a percentage of the receipts derived from the transaction. The legal incidence of state sales tax laws may be on the buyer (“consumer” taxes) or on the seller (“vendor” or “privilege” taxes).

Use taxes, which complement sales taxes, are imposed on the use, storage, or consumption in a state of property or taxable services that have not been subjected to a sales tax. Essentially, use taxes are designed to prevent the avoidance of sales taxes on interstate retail transactions (sales made between a buyer and seller located in different states) by taxing goods and service procured in one state but intended for use or enjoyment in another state. To the extent that sales tax is paid on such interstate transactions, a credit is allowed against any use tax that is ultimately owed.

### **D. Jurisdiction to tax**

The key issue with respect to sales and use taxation is jurisdiction to tax, or “nexus.” This concept deals with the power of one state to compel a seller to collect and remit the sales or use tax due on a transaction. Under current U.S. law, nexus exists only if the seller has some physical presence within the taxing state (either by itself or through an agent or affiliate that is “establishing and maintaining” an in-state market for the seller), and if such presence is more than *de minimis*. As of November 2011, three separate bills had been introduced in Congress to eliminate the physical presence nexus standard for remote sellers (sellers that sell and ship goods to customers from points outside of the customer’s state and that lack physical presence in the customer’s state). The likelihood of passage for any of the bills is uncertain.

Direct physical presence, even if unrelated to a seller’s sales activity, creates a collection obligation. Physical presence may be deemed to exist based on the ownership of real or tangible personal property, the in-state presence of employees, the temporary storage of inventory or any other entry into the state by the seller or its employees (for example, delivery of goods sold in the seller’s own vehicles). Physical presence may also be attributed to a seller based on activities conducted by third-parties in the state on the seller’s behalf. Essentially, if an agent or affiliate of a seller that does not have nexus with a state enters the state and conducts activities on the seller’s behalf that serve to “establish and maintain a market” for the seller’s goods (for example, soliciting sales,

providing repair or installation services or providing training services), the seller may be deemed to be physically present in the state, and be subject to the state's sales and use tax jurisdiction. Since 2008, at least 20 states have enacted or considered laws that would expand the scope of "establishing and maintaining a market" to include activities such as the following:

- Referring customers to a remote seller through a link on an Internet website
- Having a similar trade name, selling similar goods or services, and being part of a controlled group together with a remote seller
- Being part of a commonly controlled group that includes an in-state warehouse or distribution center that serves a remote seller

If a seller has nexus with a state for sales and use tax purposes, the seller is generally required to register in that state for sales and use tax purposes, and is required to collect and remit sales and use taxes due on its taxable transactions with customers in the state. The seller is also required to file monthly sales and use tax returns and remit all taxes collected. Failure to comply with the specific state requirement may result in the seller becoming liable for any tax due on a transaction, plus penalties and interest.

## **E. Retail sales**

State sales and use taxes apply to receipts from taxable property and services sold and purchased at retail. A "retail sale" generally is defined as the transfer of title and possession of property from the seller to the ultimate consumer in exchange for consideration. Wholesale sales (discussed below), also referred to as "sales for resale," are exempt from sales and use tax in all states that impose a sales and use tax scheme.

Taxation of services that are ancillary to the sale of taxable tangible personal property, such as delivery and installation, varies among the states. Most states have explicit statutory or regulatory provisions dealing with the treatment of such services. In many cases, such treatment is determined based on the state's specific definition of "receipts" for sales and use tax purposes.

Retail sales involving three parties (retailer, buyer and supplier), in which title to the property sold passes from the retailer directly to the buyer, but possession is transferred from a third-party supplier directly to the buyer, are classified as "drop ship" transactions. In a drop ship transaction, the retailer is generally responsible for sales and use tax collection. However, if the retailer does not have nexus with the buyer's state, a supplier with nexus in the state may be held liable for sales and use tax collection on the transaction. Alternatively, states may attempt to assert nexus over the out-of-state retailer under a "flash title" theory (that is, by asserting that the retailer takes title to the property for an instant while the property is within the state and, accordingly, has physical presence) or assess use tax liability directly against the buyer.

Leases are treated as taxable retail sales in most states. The tax generally applies separately to each lease payment. However, certain states, such as Illinois and New Jersey, require lessors of

tangible personal property to pay the sales tax in full on acquisition and before any subsequent lease or rental. In these states, tax is not charged on the subsequent lease.

Lease transactions that are deemed to constitute “financed sales” (arrangements under which total lease payments approximate the sales price, with the lessor having the option to purchase the leased item for a nominal price at the end of the lease term) are generally treated as straight sales in most states. If a lease is reclassified as a financed sale, tax is due in full at the time of inception.

Sales and use taxes are imposed on receipts derived from taxable retail sales transactions. In most states, taxable receipts may be reduced by the value of any goods traded in by the purchaser as part of the transaction and by any coupons, rebates, or discounts issued by the vendor.

## **F. What is taxable**

State sales and use taxes generally apply to sales of tangible personal property, which is defined in most states as personal property that can be seen, touched, measured and weighed, or is otherwise perceptible to the senses. In general, services are not broadly subject to sales and use taxes. However, several states tax specifically enumerated services. Such taxation is not uniform across the states.

Real property (land, buildings, fixtures) is not considered to be tangible personal property, and the sale or lease of real property is not subject to sales and use taxation, except in certain limited circumstances in Arizona, Florida, and New York City.

Intangible personal property, such as securities and intellectual property, are not subject to sales and use taxation. However, certain intangible “digital equivalents” of tangible personal property may be subject to tax, depending on the specific state’s laws. For example, canned (noncustom) computer software that is delivered electronically is considered to be tangible personal property in several states and is subject to tax. Similarly, music downloaded from the Internet is viewed as taxable property in certain jurisdictions.

Many states classify utilities, such as natural gas and electricity, as taxable tangible personal property. In such states, sales of these utilities may be subject to sales and use tax in addition to any applicable utility transmission fees or excise taxes.

## **G. Situs of sales**

Where a sale is deemed to take place is crucial in determining which jurisdiction’s tax laws and rates apply. For intrastate sales (that is, sales that occur entirely within a single state), the situs of the sale determines which local sales and use taxes are imposed in addition to the state-level tax, and which locality receives the revenue. For interstate transactions, the situs of the sale determines which state’s laws control and which state is entitled to the tax revenue.

In general, sales are sourced based on the nature of the transaction. For example, if a sale occurs at a fixed location, such as an

over-the-counter sale at a store, the sale is sourced to that location. For intrastate remote sales that involve a buyer and seller (and possibly the goods sold) at separate locations, the transaction may be sourced to where the goods are received by the buyer, where the order is accepted by the seller or from where the goods are shipped.

For interstate remote sales, tax generally is imposed at the destination (that is, where the goods are received by the buyer), regardless of where title passes to the ultimate customer. In such cases, use tax, rather than sales tax, is due, and it must be collected and remitted by the seller if the seller has nexus with the destination state. To the extent that the seller lacks nexus with the destination state, the purchaser must self-assess and pay use tax to the state.

## H. Tax exemptions

Exemptions from state sales and use taxes are largely driven by policy and may be based on federal or state law. Exemptions based on federal law include taxes imposed on Indian tribes and reservation lands, and sales made to the federal government. State and local level exemptions vary by jurisdiction, but may be grouped into the following four distinct categories:

- Entity-based
- Property-based
- Use-based
- Transaction-based

Like other aspects of state and local taxation, the availability and operation of sales and use tax exemptions and the procedures for claiming the exemptions vary among the states.

**Entity-based exemptions.** Sales made to entities that qualify for exemption in a state (for example, religious or charitable organizations and state and federal governmental agencies) is not subject to tax. Issues may arise with respect to contractors performing work for or on behalf of such exempt entities. In general, contractors must pay tax on items purchased in fulfilling a contract with an exempt entity. However, tax is generally not due if the contractor is acting as an agent for the entity in procuring items for the entity's own use.

**Property-based exemptions.** Many states deem certain specific items to be exempt from tax as a matter of policy. For example, several states do not tax food, clothing, or medicine, or they provide for a reduced rate on such items. Certain states set thresholds for such items. For example, Massachusetts exempts clothing purchases up to \$175 per item.

**Use-based exemptions.** Items that otherwise are subject to the tax may be exempt based on their actual use by the purchaser. Most notably, items used in manufacturing, research and development and pollution control typically are eligible for exemption. In addition, many states provide specific exemptions for enumerated items purchased and used in designated enterprise and economic development zones in the state.

**Transaction-based exemptions.** The most common sales and use tax exemptions are based on the type of transaction involved. In

the retail context, the “sale for resale” or “wholesale sale” exemption is most often claimed. The “occasional sale” exemption, also referred to as the “casual sale” or “isolated sale” exemption, typically applies in the context of business restructurings.

*Sales for resale.* To avoid multiple taxation, most states that impose a sales and use tax regime provide an exemption for wholesale sales. To claim this exemption, the purchaser must purchase the taxable items with the intention of reselling or leasing the items at retail. Any subsequent use by the purchaser of the items purchased under a resale exemption results in use tax becoming due. However, the seller is not required to collect such tax unless it knew at the time of sale that the purchaser intended to use the items.

*Occasional sales.* Sales that are rare or nonrecurring, such as the sale of the operating assets of a business division, qualify for exemption in most states. The theory underlying this exemption is that the sales tax is meant to apply to retail transactions only, and one-time sales are not sufficiently systematic to indicate that the seller is in the business of engaging in such transactions. In states that do not provide specific exemptions for business reorganizations (for example, incorporations, mergers and spin-offs), the occasional sale exemption may apply to limit the application of sales and use taxes to transfers of assets.

*Temporary storage.* Several states allow an exemption for property that is not used in the state, but is stored temporarily in the state and is intended for ultimate shipment outside of the state. This exemption typically applies to items fabricated or produced in a state and to items purchased and warehoused in a state, but intended for ultimate transport outside of the United States.

**Claiming exemptions.** The process for claiming any of the exemptions described above varies depending on the type of exemption claimed and the state or states involved. In most instances, to claim an exemption, purchasers must satisfy the following conditions:

- They must be registered in the state where they are claiming the exemption.
- They must provide the seller with a valid exemption certificate.

If the seller takes an exemption certificate in good faith (that is, the seller does not know of any reason why the exemption does not apply), the seller is relieved of any tax-collection requirement with respect to the transaction. “Good faith” standards are not uniform among the states. If a seller does not accept such certificate and if the seller is otherwise required to collect tax but does not do so, the seller may be personally liable for any tax due on the transaction. In several states, a seller must be registered for purposes of that state’s sales and use tax to be able to accept an exemption certificate in good faith. This requirement may present a challenge for non-U.S. based sellers as registration often requires that the seller first obtain a federal employer identification number.

## **I. Local (substate)-level sales and use taxes**

Local sales and use taxes are authorized in 37 states and in Puerto Rico. In most instances, the local sales and use tax base mirrors

the state-level sales and use tax base. However, rates may differ significantly among the localities within a particular state. As indicated in Section B, a single address within a state may fall within multiple local taxing jurisdictions.

In most states, local sales and use taxes are administered at the state level. However, in a limited number of states, such as Louisiana, such taxes are administered by the locality imposing the tax, and separate registrations and filings may be required. Sellers that have nexus with a state are generally considered to have nexus with every locality within that state, regardless of whether they maintain any physical presence within a locality.

## **J. Registration, filing, and compliance issues**

Sellers that have nexus with a state (see Section D) must register with the state taxing agency for sales and use tax purposes. Registered sellers must collect and remit sales and use tax on all taxable transactions, and maintain exemption certificates received from their customers. Sales and use tax returns are due on a monthly or quarterly basis, depending on the specific state's laws. Sellers that do not make any taxable sales for a given period may be relieved from filing regular returns, or they may be required to file "zero" returns indicating that no taxable sales occurred.

**Penalties and interest.** All states impose penalties for failure to file returns and pay taxes as required by law. Penalty rates vary among the states. With respect to cases not involving fraud, the penalties range from 5% to 25% of the tax due. In cases involving the failure to file or pay as a result of fraud, penalties can exceed \$50,000 and result in imprisonment for any officers deemed responsible for the willful failure.

Similarly, all states impose interest on tax determined to be due that was not paid. In general, interest is assessed from the due date for any tax determined to be payable until the date of payment. The interest rate charged varies among the states. In general, interest rates vary from 1% to more than 14%. Some states determine their interest rates based on the prime rate, plus some additional percentage. Other states set rates legislatively. Rates set legislatively change less frequently, while those tied to the prime rate generally change quarterly, semiannually, or annually, depending on market conditions.

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## **Uruguay**

(Country code 598)

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	29 December 1972
European Union (EU) member state	No
Administered by	Directorate General of Taxes ( <a href="http://www.dgi.gub.uy">http://www.dgi.gub.uy</a> )
VAT rates	
Standard	22%
Reduced	10%
Other	Zero-rated and exempt
VAT number format	Tax identification number (RUC), which contains 12 digits
VAT payments	Monthly
VAT return periods	Monthly (small VAT taxpayers, as determined by the VAT authorities, may file annually)
Thresholds	
Registration	None
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods or services made in Uruguay by a taxable person
- The importation of goods from outside Uruguay, regardless of the status of the importer

**C. Who is liable**

A VAT taxpayer is any taxpayer for income tax purposes that makes taxable supplies of goods or services in the course of doing business in Uruguay. No registration threshold applies. The definition of a VAT taxpayer applies to a permanent establishment of a foreign business in Uruguay.

**Group registration.** VAT grouping is not allowed under the Uruguayan VAT law. Legal entities that are closely connected must register for VAT individually.

**Nonestablished businesses and tax representatives.** A “nonestablished business” is a business that does not have a fixed establishment in Uruguay. To register as a taxpayer, a nonestablished business must have an address in Uruguay and must appoint a tax representative to undertake its VAT obligations (such as filing returns).

**Late-registration penalties.** Penalties and interest are assessed for late registration for VAT.



## D. VAT rates

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

In Uruguay, the following are the VAT rates:

- Standard rate: 22%
- Reduced rate: 10%
- Zero rate (0%)

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

The following tables list examples of exempt supplies of goods and services, goods and services taxable at the zero rate and supplies of goods and services taxable at the reduced rate of VAT (these lists are not exhaustive).

### Examples of exempt supplies of goods and services

Foreign currencies, securities, bonds, stocks and other financial transactions

Milk

Books, newspapers, magazines and educational material

Water

Services supplied by hotels in “low season”

### Examples of goods and services taxable at 0%

Exports of goods

### Examples of goods and services taxable at 10%

Basic foodstuffs

Soap

Medicines

Services supplied by hotels in “high season”

Tourist services

Health services

## E. Time of supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply is either when the goods are transferred or when the services are performed. The invoice for the transaction must be issued at the time of supply.

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

## F. Recovery of VAT by taxable persons

A taxable person may recover input tax (or credit VAT), which is VAT charged on goods and services supplied to it for business purposes. A taxable person generally recovers input tax by deducting it from output tax (or debit VAT), which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied in Uruguay and VAT paid on imports of goods.

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

**Nondeductible input tax.** Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or for other business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use (these lists are not exhaustive).

#### **Examples of items for which input tax is nondeductible**

Purchase of a car, van or truck by a professional

Restaurant meals (unless within the limit established by law)

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

Business gifts

Purchase, lease or hire of cars, vans and trucks, except by professionals

Advertising and sponsorship

Parking

Travel expenses

Attendance at conferences and seminars

Business use of home telephones and mobile telephones

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

### **G. Recovery of VAT by nonestablished businesses**

Uruguay does not refund VAT incurred by foreign businesses unless the foreign businesses have a permanent establishment in Uruguay.

### **H. Invoicing**

**VAT invoices and credit notes.** A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. An invoice may not be issued for an amount of less than UYP 70. A VAT invoice is necessary to support a claim for an input tax credit.

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

**Exports.** Uruguayan VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents confirming that the goods have left Uruguay.

**Foreign-currency invoices.** If an invoice is issued in a foreign currency, the amounts may be converted to Uruguayan pesos using the buyer exchange rate used between banks on the day before the transaction.

## I. VAT returns and payment

**VAT returns.** VAT returns are generally submitted monthly. “Small VAT taxpayers” must submit returns annually. The tax authorities decide which businesses qualify as “small VAT taxpayers.” However, all VAT taxpayers must make VAT payments monthly.

Monthly VAT returns and payments are due in the month following the month in which the transactions are reported. The exact date for payment depends on the taxpayer’s registration number (RUC).

Small VAT taxpayers must file annual tax returns in the fourth month following the end of the taxpayer’s fiscal year. For example, if a small VAT taxpayer closes its fiscal year in December, its annual VAT return is due in April. The exact date for payment depends on the taxpayer’s registration number.

VAT return liabilities must be paid in Uruguayan pesos.

**Penalties.** A penalty of 5%, 10% or 20% is imposed for late submission of the VAT return or late payment of VAT. The penalty rate depends on the date of payment. In addition, interest is charged on late payments of tax at a rate that varies.

Penalties for severe cases of nonpayment of VAT, infringement of VAT regulations and fraud include criminal sanctions, such as fines and imprisonment.

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## Venezuela

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### **A. At a glance**

Name of the tax	Value-added tax (VAT)
Local name	Impuesto al valor agregado (IVA)
Date introduced	1 October 1993

European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.mf.gov.ve">http://www.mf.gov.ve</a> ) Tax Administration (SENIAT) ( <a href="http://www.seniat.gob.ve">http://www.seniat.gob.ve</a> )
VAT rates	
Maximum	16.5%
Minimum	8%
Current	12%
Other	Additional 10%, zero-rated and exempt
(For details regarding the above rates, see Section D.)	
VAT return periods	Monthly

## B. Scope of the tax

VAT is chargeable on the following operations:

- The sale of tangible movable goods.
- The final importation of goods.
- The provision of independent services performed or used in the country, including those coming from abroad. The definition of “services” includes the following activities:
  - Any independent activity in which an obligation “to do something” is a principal element.
  - The provision of water, electricity, telephone and garbage collection services.
  - Civil works contracts, including personal and real property.
  - The lease of personal and real property intended to be used for purposes other than residential use.
  - The assignment of use of rights included in and regulated by the laws on industrial property (patents and marks) and intellectual property (copyrights), for valuable consideration.
- The export of goods and services.

## C. Who is liable

Taxable persons are ordinary taxpayers such as habitual importers of goods, manufacturers, traders, service providers, and, in general, individuals or legal entities that as part of their business activities, carry out activities classified as taxable for VAT purposes.

Financial leasing companies and banks are ordinary VAT taxpayers with respect to the portion of the tax payable on the amortization of the price of tangible movable property, excluding interest.

Recipients of imported goods and services purchased from non-domiciled persons or entities are responsible for the tax due. As the “party responsible for the tax,” the service recipient must declare and pay the VAT due on the imported goods or services. The tax paid by the recipient is treated as input tax for the responsible party and must be included in the tax return corresponding to the tax period in which the taxable event occurs.

Occasional taxpayers are nonhabitual exporters of tangible movable property.

Formal taxpayers are persons that exclusively carry out activities or operations that are exempt or exonerated from VAT.

**Withholding of VAT.** The Tax Administration (SENIAT) has designated taxpayers qualified as “special taxpayers” as the persons responsible for the payment of VAT in their capacity as withholding agents. Special taxpayers must serve as withholding agents of the VAT generated by the purchase of personal property or the provision of services provided by suppliers who are ordinary taxpayers.

The amount to be withheld is calculated by multiplying the price invoiced for the goods or services provided by 75% of the proportional tax rate (currently the rate is 12%). As a result, the withholding rate is 9%.

The VAT withheld is treated as an advance payment for the supplier and may be deducted from the tax liability in the period in which the withholding is made or in the period in which the withholding receipt was received, whichever is later.

If the tax withheld is higher than the VAT proportional rate in the relevant monthly period, the excess tax paid may be carried forward to the following monthly periods until it has been deducted in full. If three monthly periods expire and the excess has not yet been deducted, the taxpayer may choose to request a refund of the amount from the tax authorities.

If the withholding is made in the period from the 1st to the 15th day of the month, the tax withheld must be submitted by the withholding agent to the National Treasury within the following five working days. If the withholding is made from the 16th to the last day of the month, the tax withheld must be paid to the National Treasury within the first five working days of the following month.

#### **D. VAT rates**

In Venezuela, the VAT law provides that the proportional rate is fixed in Venezuela’s Annual Budget Law. The VAT law indicates that the minimum rate is 8% and the maximum rate is 16.5%. Currently, the VAT rate is 12%. This rate applies to all supplies of goods and services, unless a specific measure provides for a different rate.

An additional 10% rate applies to the sale, import and export of certain goods indicated in the VAT law. The additional 10% rate applies to, among others, the following supplies:

- Helicopters and airplanes for recreational use
- Luxury goods worth US\$500 or more
- Gaming machines that use coins or cards
- Caviar

The VAT law also provides a zero rate (0%) for the export of tangible personal property and tangible movable property, and the export of services.

Exempt goods and services are not liable to tax. The Venezuelan VAT law provides for the exemption and exoneration from VAT. Exemption is the entire or partial exemption of the payment of the tax obligation, granted by the special tax law. Exoneration is the entire or partial exemption of the payment of the VAT obligation, granted by the Executive Power.

The following tables list examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the 0% rate of VAT (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Food and goods for personal consumption such as bread, rice, salt, sugar, coffee, milk, pasta, and margarine

Books, newspapers and magazines

Education provided by institutions registered in the Ministry of Education, Culture and Sports and the Ministry of Superior Education

Public transportation of passengers by land or sea

Tickets to national parks, museums and cultural centers

Banking and insurance services

Imports made by diplomatic agents, in accordance with international treaties subscribed to by Venezuela

Medical assistance services

Residential electricity

Fertilizers

#### **Examples of goods and services taxable at 0%**

Exports of goods and services

### **E. Time of supply**

In Venezuela, VAT generally becomes due when the taxable event occurs.

**Tangible property.** For sales of tangible personal or tangible movable property the following is the time of supply:

- For sales to public entities: when the payment order is authorized
- For all other sales: when the invoice or the necessary documents are issued, or when the payment is due or made, whichever is earlier

**Services.** For supplies of services, the following is the time of supply:

- For supplies of electricity, telecommunications, and broadcasting and television services: when the invoice is issued
- For services rendered to public entities: when the payment order is authorized
- For other services: when the invoice or equivalent document is issued, when the payment occurs or when the service is provided, whichever is earlier
- For services received from abroad that are not subject to customs procedures: when the invoice or equivalent documents are issued, when the payment occurs or when the service is provided, whichever is earlier

**Imports.** The time of supply for imports is when the registration of the customs return is due.

**Other supplies.** For all other supplies not listed above, the time of supply is when the invoice or equivalent document is issued, when payment is made or when the property is received, whichever is earlier.

## F. Recovery of VAT by taxable persons

Input tax (tax credit) is tax paid on supplies of goods and services acquired in the course of a taxable business activity. Input tax is deducted from the amount of output tax, which is the tax charged on the taxpayer's operations during the tax period. Input tax credit arises from the tax paid on the purchase and import of personal property or the receipt of services that are related to costs or expenses properly incurred in the habitual economic activity of the taxpayer. Under the VAT law, input tax is considered to be effectively paid by the recipient of the goods or services when the taxable event occurs.

## G. Invoicing

**VAT invoices.** Taxpayers must provide VAT invoices for all sales of goods and supplies of services. Invoices may be replaced by other documents authorized by the Tax Administration after such authorization is granted.

**Foreign-currency invoices.** Under Venezuelan law, if a VAT invoice is issued in foreign currency, it must also indicate the value of the supply in bolivars (Bs.F), using the exchange rate published by the Venezuelan Central Bank in the *Official Gazette* for the date of the transaction.

Administrative Order 0257, which contains general guidelines for issuing invoices and similar documents for VAT, was issued by the SENIAT and published in *Official Gazette* No. 38,997, dated 19 August 2008.

## H. VAT returns and payment

The tax is assessed for monthly tax periods. The tax return and payment of any tax due must be submitted within the first 15 days following the tax period.

**Tax credits.** If the amount of the deductible input tax is greater than the total tax payable in a monthly period, the resulting difference is treated as a tax credit in favor of the taxpayer, which may be carried forward to the next or subsequent monthly tax periods.

The right to offset tax paid (tax credit) against the tax payable on sales (tax debit) is a personal right of each ordinary taxpayer. This right may not be transferred to third parties, except in the following cases:

- Drawback of tax credits related to the purchase and acquisition of goods and services in the normal course of export activities (see *Drawback of tax credits for exporters*).
- Merger or absorption of companies. In a merger, the resulting company enjoys the remaining balance of the tax credit that corresponded to the merged companies.

**Drawback of tax credits for exporters.** Ordinary taxpayers that export domestic goods or services are entitled to a drawback of the tax credits paid for the acquisition and receipt of goods and services with respect to their export activities.

*Application for drawback.* To obtain the drawback of credits, the exporter must file an application with the SENIAT, stating the

amount of the tax credit claimed. The SENIAT must give its opinion on the admissibility of the application within 30 business days. If the SENIAT does not express its opinion with respect to the application in the period of 30 business days, the taxpayer may choose to wait for the decision or consider the expiration of the period to be equivalent to the rejection of the application. In the latter case, the taxpayer may take the appropriate judicial action.

The drawback becomes effective on the issuance of special tax drawback certificates (Certificados Especiales de Reintegro Tributario, or CERT), with a face value equal to the amount approved by the SENIAT with respect to the claim. The exporter may use this amount to offset its own tax payments due to the National Treasury or it may transfer the credit to third parties.

**Suspension of tax credits.** A taxpayer that is involved with the development of an industrial project that takes more than six tax periods to be developed may suspend the use of the tax credits generated during the preoperational stage of the project. The taxpayer may use domestic and imported capital goods and purchase services that add value to the goods or that are necessary for the goods to perform the function for which they are designed, until the tax period in which they begin to generate taxable income. The tax credits are adjusted taking into account the consumer price index for the Caracas metropolitan area published by the Central Bank of Venezuela, from the period when the tax credits arose until the tax period in which the first tax payment is generated.

With the approval of the SENIAT, taxpayers that are involved in industrial projects aimed essentially towards exporting or generating foreign currency may choose to be refunded the tax paid during the preoperational stage.

**Penalties.** Under Venezuelan law, penalties apply to a range of VAT offenses.

The Tax Master Code provides that the following offenses, among others, are formal breaches of the VAT law:

- Failure to file the VAT declaration
- Incomplete filing of the VAT declaration
- Filing of the declaration in a form not authorized by the SENIAT
- Failure to exhibit accounting books when ordered to by the SENIAT
- Providing the SENIAT with false information
- Breaching the SENIAT's requirements for purchases and sales books
- Failure to issue invoices or required documents
- Issuing invoices that do not comply with tax requirements

The Tax Master Code provides that the following offenses, among others, are "material breaches" of the VAT law:

- Late payment or nonpayment of VAT due
- Failure to withhold VAT

These breaches are penalized through fines.

The penalty for tax fraud is a term of imprisonment, ranging from six months to seven years.



# Vietnam

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## A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 1999
European Union (EU) member state	No
Administered by	Ministry of Finance ( <a href="http://www.mof.gov.vn">http://www.mof.gov.vn</a> )
VAT rates	
Standard	10%
Reduced	5%
Other	Zero-rated and exempt
VAT number format	99-9999999-9-999
VAT return periods	Monthly
Thresholds	
Registration	None (see Section C)
Recovery of VAT by nonestablished businesses	No (except under certain circumstances)

## B. Scope of the tax

VAT applies to goods and services used for production, business and consumption in Vietnam, including goods and services

purchased from foreign suppliers, except for those specifically identified as not subject to VAT.

### C. Who is liable

Organizations and individuals that produce and trade in taxable goods and services in Vietnam or who import taxable goods and services from overseas (referred to in this chapter as “businesses”) are liable to pay VAT. Businesses for these purposes include the following:

- Business organizations with a business registration issued under Vietnamese laws
- Economic organizations of political, social, and professional organizations and units of the people’s armed forces
- Enterprises with foreign-owned capital incorporated under Vietnamese laws and foreign corporations and individuals conducting business in Vietnam that have not established a legal entity in Vietnam
- Individuals, family households, partnerships and other forms of businesses conducting production, trading or import activities in Vietnam
- Organizations and individuals conducting production and business in Vietnam and purchasing services (including services attached to goods) from foreign organizations without a permanent establishment in Vietnam or foreign individuals who are nonresidents of Vietnam

**Registration.** Businesses must register for tax purposes within 10 working days from the date on which refundable tax arises. Newly established businesses must register within 10 working days from the date on which their investment certificates are issued. Each office, factory, branch or outlet must also be registered with and pay VAT to the local tax office where it is located except for certain cases in which the head office can declare and pay VAT.

No VAT registration threshold applies, and no exemption from registration is provided.

Foreign contractors that have a permanent establishment in Vietnam, that conduct business in Vietnam for more than 183 days and that adopt the Vietnamese Accounting Standards (VAS)/Hybrid Method pay VAT in accordance with the tax credit method and pay their tax liabilities directly to the tax office. Otherwise, they must pay VAT on a withholding basis.

**Import VAT.** VAT applies to imported goods through a reverse-charge mechanism. VAT is payable by the importer within the same time limit for declaring and paying import duty.

If services are supplied by nonresidents, VAT is payable only through the withholding mechanism.

**Late-registration penalties.** Failure to comply with registration requirements may result in a fine. The penalty for late registration ranges from VND 100,000 to VND 2 million, depending on the length of time of the delay.

### D. VAT rates

The following are the VAT rates in Vietnam:

- Standard rate: 10%
- Reduced rate: 5%
- Zero rate (0%)

Some goods and services are exempt from VAT.

The standard rate of 10% applies to goods and services that are not specifically included in the list of goods and services subject to the 0% or 5% rates and the list of exempt goods. Goods and services taxable at the standard rate include, but are not limited to, the following:

- Power generation
- Electrical products
- Processed foodstuffs
- Construction and installation
- Outgoing postal services

The 5% rate applies to the supply of essential goods and services. Goods and services taxable at the 5% rate include, but are not limited to, the following:

- Water
- Fertilizer
- Medicine and medical equipment
- Teaching tools
- Agricultural products

The zero rate applies to exported goods and services, including goods and services supplied to entities located in tax-free zones and exported goods and services that are not subject to VAT when supplied in Vietnam. The zero rate does not apply to certain supplies, including reinsurance services involving foreign insurers, financial derivatives and outgoing postal and telecommunication services.

The following table provides examples of goods and services that are exempt from VAT (this list is not exhaustive).

**Examples of exempt supplies of goods and services**

Raw agricultural products

Livestock

Aircraft, oil rigs and ships that are not yet locally produced and that are leased from overseas

Land-use rights

Credit activities, credit guarantees, financial leases and financial derivative services

Capital transfers

Securities transfers

Life insurance services

Medical services

Education and vocational training

Publication of newspapers, magazines and certain kinds of books

Public transportation by bus and electric car

Reinsurance services

Technology transfers

Public sewage services

Foreign-currency trading (effective from 1 March 2012)

Debt transfers (effective from 1 March 2012)

Credit card issuance (effective from 1 March 2012)

Factoring (effective from 1 March 2012)

**Foreign contractors.** Foreign contractors that supply goods and services to Vietnam are subject to the following deemed VAT rates:

- Trading goods (separate value from service in the contract): exempt
- Supply of services: 5%
- Construction and installation with supply of materials and equipment: 3%
- Construction and installation without supply of materials and equipment: 5%

VAT is withheld at source by the Vietnamese party to the contract, unless the foreign contractor has registered for tax.

### E. Tax point

For goods, the time of supply for VAT purposes (the tax point) is when the ownership or use rights of the goods are transferred. For services, the tax point is when the service is completely performed or when the invoice for the service is issued, regardless in both cases of whether the purchaser makes payment.

**Installment sales.** For installment sales, VAT becomes due when the purchaser possesses the right to use the goods.

**Imported goods.** For imported goods, VAT becomes due at the time of registration of the customs declarations.

### F. Recovery of VAT by registered persons

Businesses may claim input VAT paid on goods or services used for the production or trading of goods or services that are subject to VAT. Businesses recover input tax by offsetting it against output tax (VAT on sales).

To be entitled to VAT credit, a document evidencing payment made through a bank is required except for the case where the purchase value is less than VND 20 million.

In general, a valid tax invoice must be retained to support claims for input tax credits. The tax invoice must state the pretax price, the VAT and the total amount payable.

The basis for determining the amount of deductible input VAT is the amount of VAT stated on the following:

- Valid tax invoice for the goods or services
- The receipt for VAT payment at the stage of importation
- The receipt for VAT payment on behalf of a foreign party

If the business establishment discovers an amount of VAT that was not deductible on declaration as a result of the omission of the invoice or receipt for tax payment, it may make a declaration for an additional credit. The maximum period for the declaration with respect to the additional credit is six months from the month in which the omitted invoice or receipt was issued.

**Nondeductible input tax.** Businesses may not claim input VAT paid on goods or services used for producing or trading nontaxable goods or services.

**Mixed supplies.** Businesses that produce or trade taxable and nontaxable goods or services must maintain separate accounts for input tax paid on goods or services used for taxable and

nontaxable goods or services. If no separate accounts are maintained, the deductible input VAT is calculated using a ratio based on the proportion of taxable turnover compared with total turnover. However, input VAT on fixed assets is fully deductible if the fixed assets are used to produce both taxable and nontaxable goods and services, except that, effective from 1 March 2012, input VAT on fixed assets of credit institutions, reinsurance companies, life insurance companies, securities companies, hospitals and schools is nondeductible.

**Refunds.** Businesses that pay VAT using the tax credit method are eligible for a refund of VAT in the following circumstances:

- For at least three consecutive months, a business has accumulated input VAT that has not been credited against output tax. The refund is granted for each claim.
- The business exports services during a month and has a credit balance of input VAT of at least VND 200 million at the end of that month. The refund is granted monthly.
- Refunds are available if a new business is established under an investment project and has undertaken business registration and registration for tax payment and filing under the tax credit method or if a project for exploration or exploration and development of a petroleum field is in the investment period and has not begun operations. For such businesses, if the investment period is one year or more, the businesses are entitled to a refund of VAT on goods or services used for investment on an annual basis. Alternatively, if the accumulated amount of VAT on goods or services purchased for investment is at least VND 200 million, a business is entitled to a refund of VAT.
- An incorporated establishment is entitled to a refund if it is in the investment stage of a new project and if it has accumulated input VAT of at least VND 200 million that has not been credited against output VAT of its operating businesses.

An application for a refund must be submitted to the tax authority (that is, to the Tax Department or to the General Tax Department in some special cases).

The notice detailing the outcome of the tax refund application must be sent to the applicant within 15 working days (in the case of refund before examination) or within 60 working days (in the case of examination before refund).

### **G. Recovery of VAT by nonestablished businesses**

A VAT refund is allowed only for businesses using the tax credit method. A foreign contractor that has no legal presence in Vietnam but conducts business or derives income from activities in Vietnam may recover VAT if it adopts the VAS/Hybrid Method and it satisfies certain bookkeeping and tax registration requirements. To be eligible for VAT recovery, a foreign contractor must meet all of the following conditions:

- It has a permanent establishment in Vietnam or is a resident of Vietnam.
- It conducts business in Vietnam under the contractor's or subcontractor's contract for 183 days or more beginning on the date on which the contract takes effect.
- It adopts the VAS/Hybrid Method.

Foreign contractors that do not apply the VAS/Hybrid Method may not recover input VAT unless a specific international agreement entered into by Vietnam provides otherwise.

## H. Invoicing

A taxable person must provide an invoice for all taxable supplies made, including exports. Effective from 1 January 2011, the following are the four categories of invoices:

- Invoices of exports for exporting transactions
- VAT invoices for domestic transactions of taxpayers applying the tax credit method
- Sales invoices for domestic transactions of taxpayers applying the direct method
- Others, including receipts, tickets and other vouchers

The invoices can be presented in the following three forms:

- Self-printed invoice: wholly printed by the taxpayer's printers
- Invoice printed by order: produced by printing house by order of taxpayer or tax authorities for provision or sale to taxpayer
- Electronic invoice

Business entities can use different forms of invoices. However, the use of electronic invoices is encouraged.

The tax authorities may sell only blank invoices to a few specified persons such as nonbusiness organizations, individuals and households that generate sale revenue.

A valid invoice is necessary to support a claim for input tax deduction.

**Export documentation.** Exports of goods and services are zero-rated. Proof of export is required. The required documents to claim a refund of input VAT include contracts for the sale of goods, legitimate invoices, customs declarations and proof of payment through a bank by foreign parties.

**Foreign-currency invoices.** If an invoice is issued in a foreign currency, all values that are required on the invoice must be converted into Vietnamese dong, using an acceptable exchange rate.

## I. VAT returns and payment

**Returns and payment.** Businesses are generally required to file a monthly tax return and remit the monthly VAT payable to the tax office by the 20th day of the following month.

Any excess input VAT paid may be credited in the following period or refunded if the business is eligible for a refund (see Section F).

A business that imports goods subject to VAT must file a customs declaration and remit VAT payable on each occasion when goods are imported. The time limit for notices and payments of VAT with respect to imported goods is the same as the time limit applicable to notices and payments of import duties.

VAT liabilities must be paid in Vietnamese dong.

**Penalties.** Penalties are imposed for late payment of VAT at a rate of 0.05% of the deferred amount of tax for each day of late payment.

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

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(Country code 260)

### Lusaka

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### A. At a glance

Name of the tax	Value-added tax (VAT)
Date introduced	July 1995
European Union (EU) member state	No
Member of the Southern African Customs Union	No
Administered by	Zambia Revenue Authority ( <a href="http://www.zra.org">www.zra.org</a> )
VAT rates	
Standard	16%
Other	Zero-rated and exempt
VAT number format	
Limited companies	12345678 — 13
Limited companies above a certain turnover threshold	12345678 — 83
Partnerships	12345678 — 12
Individuals	12345678 — 11
VAT return periods	Monthly (quarterly for small businesses)
(effective from 1 January 2012, the VAT accounting year is 1 January to 31 December)	
Thresholds	
Registration	K 200 million in any 12 consecutive months K 50 million in any three consecutive months
Recovery of VAT by nonestablished businesses	Yes (limited to exports)

## B. Scope of the tax

VAT applies to the following transactions:

- The supply of goods and services in Zambia by a taxable person
- Reverse-charge services received by a taxable person in Zambia
- The importation of goods from outside Zambia, regardless of the status of the importer

## C. Who is liable

Any person who makes supplies of taxable goods and services in Zambia in the course of a business is liable to register for VAT if the person's turnover exceeds either of the following thresholds:

- Turnover of K 200 million in any 12 consecutive months
- Turnover of K 50 million in any three consecutive months

**Group registration.** Group VAT registration is available for corporate bodies. The businesses must be broadly similar in nature and must be administered by the same management team.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Zambia. A foreign company may not register for Zambian VAT unless it has a place of business in the country. It must also make taxable supplies of goods or services.

A foreign business that makes supplies in Zambia must appoint a representative who is responsible for registration for and payment of VAT. If an agent is not appointed, the nonestablished business may not deduct input tax (see Section F).

**Reverse-charge services.** A reverse charge may apply for services received by a taxable person in Zambia from a nonestablished service provider. The Zambian VAT law requires that a taxable person must act on behalf of a nonestablished supplier of services with respect to matters relating to tax, in the following circumstances:

- The supplier is a company that does not have a business establishment in Zambia.
- The supplier is an individual or partner in a partnership that does not have a usual place of residence in Zambia from which to appoint a person resident in Zambia as a tax agent.

If a tax agent is appointed, the agent invoices the recipient of the services for the VAT payable, collects the tax and accounts for it to the tax authorities. The recipient of the services may claim input tax relief on the basis of the invoice issued by the tax agent (see Section F).

If no tax agent is appointed, the recipient of the service must self-assess for the VAT due and declare the output tax as if it were the supplier. However, in this case, no input tax relief may be claimed.

**Late-registration penalties.** Late registration by traders who are subject to the turnover threshold is liable to a penalty.

## D. VAT rates

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



In Zambia, the VAT rates are the standard rate at 16% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific measure provides for the zero rate or an exemption.

The following tables list examples of exempt and zero-rated supplies of goods and services (these lists are not exhaustive).

#### **Examples of exempt supplies of goods and services**

Health and educational services  
 Supply of water and sewerage services  
 Most public transport services  
 Real estate transactions  
 Financial services (effective from 1 January 2011, fee-based banking services are subject to VAT at the standard rate)  
 Insurance services (effective from 1 January 2011, property insurance and casualty insurance are subject to VAT at the standard rate)  
 Basic foods  
 Agricultural supplies

#### **Examples of goods and services taxable at 0%**

Exports of goods  
 Books and newspapers  
 Foreign aid donations  
 Medical supplies and drugs

### **E. Time of supply**

The time when VAT becomes due is called the “time of supply” or “tax point.” In Zambia, the tax point is when the earliest of the following events occurs:

- Goods are removed from the supplier’s premises.
- Goods are made available to the purchaser.
- Payment for the supply is received.
- A tax invoice is issued.

**Imports.** The time of the supply for imported goods is either the date of importation or the date on which the goods leave a duty suspension regime.

### **F. Recovery of VAT by taxable persons**

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

Input tax includes VAT charged on goods and services purchased in Zambia and VAT paid on imports of goods and services.

**Non deductible input tax.** VAT may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax may not be recovered on certain business expenses.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for purposes of making a taxable supply (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Purchase and hire of passenger cars  
Business gifts valued at more than K 25,000  
Office, home and mobile telephone service  
Business entertainment  
Fuel for passenger vehicles  
Petrol (recovery restricted to 20%)

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

Purchase, hire and maintenance of commercial motor vehicles  
Business gifts valued at less than K 25,000  
Mobile telephone handsets  
Hotel accommodations  
Utilities  
Educational material

**Partial exemption.** VAT directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies may not recover VAT tax in full. This situation is referred to as “partial exemption.” In Zambia, if a taxable person supplies both taxable and exempt goods and services, the amount of input tax recoverable is calculated using a simple pro rata method based on the value of taxable and exempt supplies made.

**Refunds.** If the amount of input tax in a period exceeds the amount of output tax due, a taxable person may request a VAT refund. VAT refunds are generally paid within three months. However, no interest is payable if the refund is paid late.

**G. Recovery of VAT by nonestablished businesses**

Zambia does not generally refund VAT incurred by a foreign business unless it is registered for VAT there. However, a refund scheme allows a VAT refund to be paid to a nonestablished business that purchases goods from a Zambian VAT-registered supplier for onward export.

The refund scheme applies to foreign passport holders that are on a business visit to Zambia. The scheme applies only to commercial export consignments that do not otherwise qualify for VAT zero rating. The refund is restricted to VAT paid on goods supplied by a participating supplier. VAT incurred on other expenditure in Zambia is not recoverable using this scheme.

**Refund application.** The foreign exporter pays the full VAT amount on the export consignment to a participating supplier at the time of purchase. The first time that the scheme is used, the participating supplier must issue a commercial export tax invoice (Form VAT 283) and a commercial export authorization (Form VAT 284). For subsequent exports, the supplier need only issue Form VAT 283. The exporter must declare the goods to Customs at the port of exit from Zambia, and, at the same time, submit Forms VAT 283 and VAT 284 for verification and certification.

Customs officials at the port of exit retain copies of Forms VAT 283 and VAT 284 for first exports and subsequently dispatch them to the Zambia Revenue Authority for processing. The exporter may retain a certified copy of the forms for its records.

After the refund has been processed, the amount is sent to the exporter's destination address or an authorized representative may collect the refund in Lusaka. The exporter must indicate an authorized representative on Form VAT 284.

To qualify for this scheme, the export should be sent through the following designated exit points from Zambia:

- Lusaka International Airport
- Mpulungu Border Post
- Kasumbalesa Border Post
- Mwami Border Post
- Nakonde Border Post
- Chirundu Border Post
- Kazungula Border Post
- Victoria Falls Border Post

To participate in the scheme, a foreign business must apply in writing to the Commissioner of Value Added Tax. An application form (Form VAT 282) may be obtained by writing to the following address:

The Assistant Commissioner—VAT Credibility  
 Zambia Revenue Authority  
 1st Floor, Eastern Wing  
 Revenue House  
 Private Bag W136  
 Lusaka  
 Zambia

## H. Invoicing

**VAT invoices and credit notes.** A supplier of taxable goods and services must issue a tax invoice to the purchaser. A valid tax invoice is required to accompany all claims for input tax deduction. A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes should show the same information as tax invoices.

**Proof of exports.** Goods exported from Zambia are zero-rated. However, to qualify for a zero rating, exports must be supported by customs evidence that proves the goods have left the country.

**Foreign-currency invoices.** Invoices issued using a foreign currency must indicate the equivalent in Zambian kwacha using the exchange rate for the date of the transaction.

## I. VAT returns and payment

**VAT returns.** The tax period for VAT is one month. Returns must be filed by the 21st day after the end of the tax period. Payment is due in full by the same date.

**Penalties.** Late submission of a VAT return is subject to a penalty.

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# Zimbabwe

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**A. At a glance**

Name of the tax	Value-added tax (VAT)
Date introduced	1 January 2004
European Union (EU) member state	No
Member of Common Market for Eastern and Southern Africa (COMESA) and Southern African Development Community (SADC)	Yes
Administered by	Commissioner General, Zimbabwe Revenue Authority (Zimra) ( <a href="http://www.zimra.co.zw">http://www.zimra.co.zw</a> )
VAT rates	
Standard	15%
Other	Zero-rated and exempt
VAT number format	10001111
VAT return periods	
Monthly	Annual taxable supplies of US\$240,000 or more
Bimonthly	Annual taxable supplies of less than US\$240,000
Thresholds	
Compulsory registration	US\$60,000
Voluntary registration	At Zimra's discretion
Recovery of VAT by nonestablished businesses	No

**B. Scope of the tax**

VAT applies to the following transactions:

- The supply of goods and services in Zimbabwe by a “registered operator” (see Section C)
- The importation of goods into Zimbabwe by a person
- The supply of imported services by a person
- The supply of goods and services through an auctioneer by a person who is not a registered operator

**C. Who is liable**

A “registered operator” is required to account for output tax on all goods and services supplied unless the supply is specifically exempt or zero-rated.

A “registered operator” is a person who is or is required to be registered under the VAT Act. It includes a person who makes supplies of taxable goods and/or services in Zimbabwe in the course of a business in excess of the registration threshold. A person includes a public authority, local authority, company or body of persons, whether corporate or unincorporated, the estate of a deceased or insolvent person and a trust fund.

The VAT registration threshold for 2012 is taxable supplies in excess of US\$60,000. A taxable person must notify Zimra of its obligation to register for VAT within 30 days of becoming obligated to register.

An importer of goods is required to pay VAT.

The recipient of “imported services” is required to pay VAT on these services. “Imported services” refer to a supply of services that is made by a supplier who is resident or carries on business outside Zimbabwe to a recipient who is a resident of Zimbabwe to the extent that such services are used or consumed in Zimbabwe for a purpose other than making taxable supplies.

The auctioneer through whom a nonregistrant supplies goods and services is responsible for the VAT on the supply of such goods and services.

**Nonestablished businesses.** A “nonestablished business” is a business that does not have a fixed establishment in Zimbabwe. A nonestablished business that makes supplies of goods or services in Zimbabwe must appoint a representative to register for VAT. The representative must be resident in Zimbabwe.

#### D. VAT rates

“Taxable supplies” refers to supplies of goods and services that are liable to tax at the standard rate (15%), or zero rate (0%). The supplier must account for VAT on all supplies of goods and services at the standard rate, unless the supply is specifically exempt or zero-rated under the VAT Act. “Exempt supplies” refers to supplies of goods and services that are not liable to tax. Suppliers of exempt supplies are not entitled to input tax deduction with respect to VAT paid on expenses incurred to make the supplies (see Section F).

The following tables list examples of exempt supplies of goods and services and supplies of goods and services that are zero-rated (these lists are not exhaustive).

##### **Examples of exempt supplies of goods and services**

- Local supplies of financial services (as defined) including services supplied by banks, building societies and insurance companies
- Medical services
- Educational services by institutions registered under the Ministry of Education or Higher Education
- Transport of fare-paying passengers by railway or road
- Supplies of donated goods or services by nonprofit (charitable) bodies
- Supplies of immovable property located outside Zimbabwe
- Rental of residential accommodation
- Staff accommodation

Water supplied through a pipe for domestic use

Supply of domestic electricity

Owners' rates charged by a local authority (a levy charged by a local authority based on the value of property)

Commission charges on tobacco sales on auction floors

Tobacco supplied on auction floors

Livestock

Most fuel and fuel products

**Examples of goods and services taxable at 0%**

Exports of goods (other than unbeneficiated chrome, which is taxable at 20%) and services

Certain supplies of goods that are used exclusively in an export country

International transport of goods and services

Sales of businesses as going concerns to registered persons

Gold sales to the central bank and commercial banks

Services supplied outside Zimbabwe to foreign head offices by Zimbabwean branches or to nonresident persons that are outside Zimbabwe when they are rendered

Tourism-related services rendered by designated tourist facilities, such as hotels, tour operators and car-hire companies

Intellectual property rights for use outside Zimbabwe

Certain foodstuffs

Certain goods used for agricultural purposes, such as animal feed, fertilizers, seed, animal remedies, pesticides, plants, tractors and other specified agricultural implements

Prescription medicines

Building bricks

Goods used by disabled persons

**E. Time of supply**

The time when VAT becomes due is called the "time of supply" (tax point). In Zimbabwe, the basic time of supply is the earlier of the following:

- The issuance of an invoice by the supplier or the recipient with respect to the supply
- The receipt of a payment of the consideration by the supplier with respect to the supply

Other time-of-supply rules apply to various situations, such as change of use, lay-by-sale agreements (under these agreements, the purchaser pays a small amount and the goods are put aside for the purchaser; the purchaser continues to pay and when a predetermined amount has been reached, the goods are released to the purchaser), repossession and betting transactions.

**Supplies between related persons.** The following are the times of supply for supplies of goods and services between related persons:

- Supply of goods: when they are removed or made available to the purchaser or recipient of the goods
- Supply of services: when the services are performed

**Rental agreements.** The time of supply for rental agreements is the earlier of the date on which the payment is due or the date on which payment is received.

**Periodic supplies.** The tax point for periodic supplies is the earlier of the date on which the payment is due, the date on which payment is received or the date on which an invoice relating only to that payment is received.

**Installment credit agreements.** For installment credit agreements, the supply is deemed to take place at the earlier of when the goods are delivered or when a payment of the consideration is received.

**Immovable property.** The time of supply for the supply of immovable property is the earlier of the date on which the change of ownership is registered in the Deeds Office or the date of receipt of a payment of the consideration. Otherwise, it is deemed to be the date of signing of the sale agreement.

**Imports.** The following are the time-of-supply rules for imports:

- Imported goods that require direct clearance for home consumption under the Customs and Excise Act: when the goods are cleared
- Goods that are imported and entered into a licensed Customs and Excise bonded warehouse: when the goods are cleared from the warehouse for home consumption
- Imported services: the earlier of the date on which an invoice is issued and the date on which a payment is made by the recipient with respect to the supply

**VAT deferment.** Deferment of VAT payment for a period of up to 90 days from the date of importation is available with respect to plant, equipment and machinery (other than road motor vehicles in most cases) that is imported and used exclusively for mining, manufacturing, industrial, agricultural, aviation or health purposes.

To qualify for this deferment, the value of such imported plant, equipment and machinery must be US\$4,800 or more.

## **F. Recovery of VAT by Zimbabwe-registered operators**

A registered operator may claim input tax (that is, VAT charged on goods and services supplied to it for business purposes) by deducting it from output tax, which is VAT charged on supplies made. Input tax may be deducted if all of the following conditions are satisfied:

- The expenses are incurred in the making of taxable supplies.
- The claimant has a valid tax invoice or bill of entry (imports).
- The claiming of input tax deduction is not specifically prohibited by the VAT Act.

Input tax includes VAT charged on goods and services purchased in Zimbabwe and VAT paid on imports of goods and services.

**Non deductible input tax.** Input tax may not be deducted with respect to purchases of goods and services that are not used for taxable purposes (for example, goods or services acquired for private use by an entrepreneur or for the purposes of making exempt supplies). In addition, input tax recovery may be prohibited for certain specified business expenses.

The following tables provide examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is for the purposes of making taxable supplies (these lists are not exhaustive).

**Examples of items for which input tax is nondeductible**

Initial purchase of passenger motor vehicles as defined in the Income Tax Act

Fees or subscriptions paid by registered operators with respect to memberships in clubs, associations or societies of a sporting, social or recreational nature

Amounts with respect to goods or services acquired for the purposes of business or staff entertainment (subject to certain exceptions)

VAT payable on exports of unbeneficiated chrome

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

Maintenance costs of passenger motor vehicles

Purchase, hire and maintenance costs of nonpassenger motor vehicles, such as vans and trucks

Expenses incurred by registered operators in the making or importation of taxable supplies, such as trading stock, raw materials, administration expenses and marketing costs

**Mixed supplies.** VAT directly related to purchases with respect to the making of exempt supplies is not recoverable as input tax. A registered operator that makes both exempt and taxable supplies (mixed supplies) cannot recover input tax in full.

In Zimbabwe, if VAT relates to the making of both exempt and taxable supplies, deductible input tax is determined using a two-stage calculation, which is described below.

*Direct attribution.* For direct expenses, the first stage is to identify expenses incurred in making taxable supplies and those incurred in making exempt supplies. VAT paid on expenses incurred in making taxable supplies is deductible as input tax while VAT paid on expenses incurred in making exempt supplies is not deductible.

*Apportionment.* For overhead, the turnover method or another apportionment method acceptable to the Zimra must be used to allocate the VAT between taxable supplies and exempt supplies. Input tax related to taxable supplies is deducted, while input tax related to exempt supplies is not deducted. If taxable supplies exceed 90% of the total supplies made by a registered operator, all of the VAT incurred by the registered operator is deductible as input tax.

**Refunds.** If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that period, a refund of the excess may be claimed. Zimra must pay interest at the prescribed rate if it does not process and pay the refunds within 40 days after the date on which the relevant return is submitted.

Before a refund is paid, the refund amount is applied against any tax, levy, interest, or penalty payable by the registered person under the VAT Act, the Customs and Excise Act, the Income Tax Act and the Capital Gains Tax Act.

**G. Invoicing**

**Tax invoices and credit notes.** A registered operator must provide a tax invoice to the recipient for all taxable supplies made within



30 days after the date of supply. In certain circumstances, subject to Zimra approval, the recipient of goods and services issues the tax invoice to the supplier.

A tax invoice must contain the following particulars:

- The words “tax invoice” in a prominent place
- The name, address and registration number of the supplier
- The name and address of the recipient and, if the recipient is a registered operator, the registration number of the recipient
- An individual serialized number and the date on which the tax invoice is issued
- A description of the goods or services supplied
- The quantity or volume of the goods or services supplied
- The value of the supply, the amount of tax charged and the consideration for the supply, or if the amount of tax charged is calculated by applying the tax fraction (15/115) to the consideration, the consideration for the supply and either the amount of the tax charged or a statement that the consideration includes a charge with respect to the tax, and the rate at which the tax is charged

A credit note may be used if the output tax accounted for exceeds the output tax properly chargeable with respect to a particular supply. A debit note may be used if the output tax properly chargeable with respect to a supply exceeds the output tax accounted for.

A credit note and debit note must satisfy all of following requirements:

- It must be clearly marked “credit note” or “debit note.”
- It must refer to the original tax invoice.
- It must indicate the reason why it has been issued.
- It must contain sufficient information to identify the transaction to which it relates.

**Proof of exports.** Exports can be classified as direct or indirect exports.

Direct exports arise if the registered operator is responsible for consigning or delivering the goods to an address in an export country. These exports can be zero-rated if the documentary requirements are met.

Indirect exports arise if the registered operator does not consign the goods to an address in an export country but instead delivers them to the purchaser that is responsible for taking them out of the country. The registered operator must satisfy Zimra that it will comply with all exchange-control regulations relating to the export of goods. If Zimra is satisfied that the goods were not taken out of Zimbabwe, the seller of such goods is liable to VAT at a rate of 15%.

If requested by Zimra, to prove that the supplies are entitled to the zero rate, the registered operator must furnish Zimra with certain documents including the following:

- Tax invoice
- Debit and credit notes
- Sales agreement
- Lease agreement
- Contract document

- Export documents bearing a Zimra stamp at the point of exit
- Other receipts if applicable
- Other documents acceptable to Zimra

## **H. VAT returns and payment**

**VAT returns.** The tax period is monthly for all registered operators with annual taxable supplies in excess of US\$240,000. The tax period is bimonthly for all registered operators with annual taxable supplies of less than US\$240,000.

VAT returns must be filed by the 25th day of the month following the tax period. Payment is due in full by the same date. If the due date falls on a Saturday, Sunday or public holiday, the due date is the last business day before the 25th.

**Penalties.** A penalty is imposed for late payment of VAT at a rate of up to 100% of the outstanding tax for each month. Additional tax equal to 100% of the relevant tax may be levied in cases of fraud.

Interest is charged on outstanding tax at a rate of 10% per year.

Fines may also apply to various other offenses, including making false statements and obstructing a Revenue officer. Severe offenses may be subject to imprisonment for periods not exceeding 24 months.

## Foreign currencies

The following list sets forth the names and symbols for the currencies of jurisdictions discussed in this book.

<b>Country</b>	<b>Currency</b>	<b>Symbol</b>
Albania	Lek	ALL
Argentina	Peso	ARS
Armenia	Dram	AMD
Aruba	Guilder	AWG
Australia	Dollar	A\$
Austria	Euro	€
Azerbaijan	Manat	AZN
Barbados	Dollar	BD\$\$
Belarus	Ruble	BYR
Belgium	Euro	€
Bolivia	Boliviano	Bs
Bonaire, Sint Eustatius and Saba	U.S. dollar	US\$
Botswana	Pula	P
Brazil	Real	R\$
Bulgaria	Leva	BGN
Canada	Dollar	C\$
Chile	Peso	CH\$
China	Renminbi Yuan	RMB
Colombia	Peso	COP
Costa Rica	Colon	¢
Croatia	Kuna	HRK
Curaçao	Antillean Guilder	ANG
Cyprus	Euro	€
Czech Republic	Koruna	CZK
Denmark	Krone	DKK
Dominican Republic	Peso	RDS
Ecuador	U.S. Dollar	US\$
Egypt	Pound	EGP
El Salvador	Colon	SVC
Estonia	Euro	€
European Monetary Union	Euro	€
Finland	Euro	€
France	Euro	€
Georgia	Lari	GEL
Germany	Euro	€
Ghana	Cedi	GH¢
Greece	Euro	€
Guatemala	Quetzal	GTQ
Honduras	Lempira	L
Hungary	Forint	HUF
India	Rupee	INR

<b>Country</b>	<b>Currency</b>	<b>Symbol</b>
Indonesia	Rupiah	IDR
Ireland	Euro	€
Isle of Man	Pound	£
Israel	New shekel	NIS
Italy	Euro	€
Japan	Yen	¥
Jersey	Pound	£
Jordan	Dinar	JD
Kazakhstan	Tenge	KZT
Kenya	Shilling	KSH
Korea (South)	Won	W
Latvia	Lats	LVL
Lebanon	Pound	LL
Lithuania	Litas	LTL
Luxembourg	Euro	€
Macedonia	Denar	MKD
Malaysia	Ringgit	RM
Malta	Euro	€
Mauritius	Rupee	Rs.
Mexico	Peso	Mex\$
Moldova	Leu	MDL
Morocco	Dirham	MAD
Netherlands	Euro	€
New Zealand	Dollar	NZ\$
Nicaragua	Cordoba	C\$
Nigeria	Naira	NGN
Norway	Krone	NOK
Pakistan	Rupee	PKR
Panama	Balboa	B/.
Papua New Guinea	Kina	K
Paraguay	Guarani	PYG
Peru	New Sol	PEN
Philippines	Peso	P
Poland	Zloty	PLN
Portugal	Euro	€
Romania	Leu	RON
Russian Federation	Ruble	RUB
Rwanda	Franc	Frw
Singapore	Dollar	S\$
Sint Maarten	Antillean Guilder	ANG
Slovak Republic	Euro	€
Slovenia	Euro	€
South Africa	Rand	R
Spain	Euro	€
Sweden	Krona	SEK
Switzerland	Franc	CHF
Taiwan	Dollar	NT\$
Tanzania	Shilling	TSHS
Thailand	Baht	THB
Trinidad and Tobago	Dollar	TTS

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<b>Country</b>	<b>Currency</b>	<b>Symbol</b>
Tunisia	Dinar	TND
Turkey	Lira	TL
Ukraine	Hryvnia	UAH
Uganda	Shilling	U Sh
United Kingdom	Pound	£
United States	Dollar	\$
Uruguay	New Peso	UYP
Venezuela	Bolivar	Bs.F
Vietnam	Dong	VND
Zambia	Kwacha	K
Zimbabwe	U.S. dollar	US\$

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