










VAT Pocket guide 2023
Luxembourg


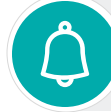




March 2023

Our VAT pocket guide is designed to inform you on the basic rules with respect to Luxembourg VAT legislation. Although we can't cover all possible situations and rules, this handy guide sums up the essential information you need about Luxembourg VAT, legal deadlines, and administrative requirements.

Contents



-  CESOP
-  DAC 7
-  FAIA / SAF-T
-  Content of invoices
-  Electronic Invoices
-  Invoicing requirement
-  Accounting

-  Filing of VAT returns
-  VAT returns deadlines
-  Exemptions : Art. 43 VAT Law
-  Exemptions: Art. 44 VAT Law
-  VAT rates
-  Taxable transactions
-  VAT registration

FAIA/SAF-T

Any taxable person must keep accounts in sufficient detail for VAT to be applied and its application checked by the tax authorities.

For large companies, automated checks performed by the VAT authorities are more efficient than traditional “on-site” manual audits. Consequently, in the context of VAT audit, the authorities may demand to be provided with a Standard Audit File for Tax (SAF-T) file.

A SAF-T—referred to as FAIA in Luxembourg—is a standard file designed to export accounting and static data upon request of the VAT authorities in regard to a VAT audit. The authorities can run many automated verifications in order to assess the consistency of the VAT returns filed and the accounting information of the taxable person.

The following are currently excluded from this obligation:

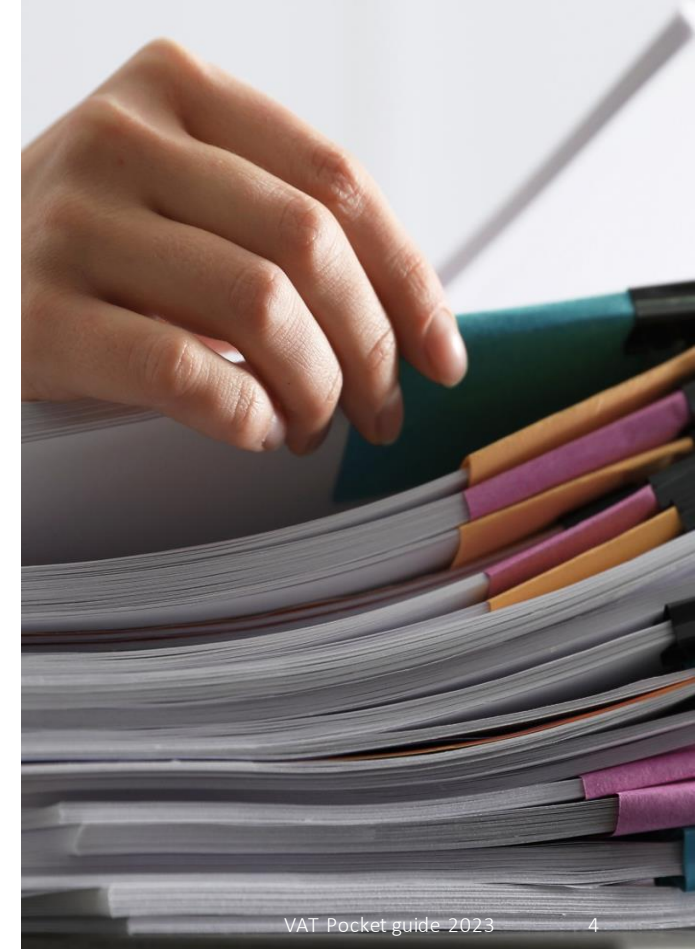
- Taxpayers exempt from implementing the Standard Chart of Accounts;
- Taxpayers subject to the simplified VAT return regime;
- Taxpayers whose annual turnover is below €112,000;
- Small taxpayers with few transactions (+/- 500), where a manual check is easier than the submission of an electronic file.

DAC 7

Since 1st of January 2023, EU digital platform operators have to collect information on income earned by sellers on their platforms and to report that information to their national tax authorities which are obliged to automatically exchange this information with the tax authorities of the EU Member States of the sellers.

CESOP

As from, the 1st of January 2024, payment services providers will have to report to the EU “CESOP” data base cross-border payments they made to EU payees when the number of these payments exceeds 25 per quarter and to keep record of these payments. The aim of this reporting is the fights against VAT fraud.



Content of invoices



In order to be compliant with the VAT law, invoices must include a minimal set of mandatory items such as:

- The date of issuance;
- A sequential number which uniquely identifies the invoice;
- The VAT identification number under which the taxable person supplied the goods or services;
- The customer's VAT identification number, under which the customer received a supply of goods or services in respect of which he is liable for payment of VAT;
- The full name and address of the taxable person and of the customer;
- The quantity and nature of the goods or services supplied;
- The taxable amount per rate or exemption, the unit price exclusive of VAT and any discounts or rebates if they are not included in the unit price;
- The VAT rate applied;
- The VAT amount payable, except where a special arrangement is applied under which, in accordance with Directive 2006/112, such detail is excluded;
- Where the customer receiving a supply or service issues the invoice instead of the supplier, e.g., 'self-billing';
- In the case of an exemption, reference to the applicable provision of the Lux or EU VAT Law indicating that the supply of goods or services is exempt;
- Where the customer is liable for the payment of the VAT, mention of 'reverse charge' is required.



Electronic invoices



It is possible to issue electronic invoices provided that acceptance by the client is properly documented. If the client agrees to receive invoices in an electronic format, in terms of content and timing, such electronic invoices follow the same rules as the traditional paper invoices.

The authenticity of the origin, the integrity of the content, and the legibility of invoices must be ensured until the end of the period for storage of invoices.

For B2G transactions, the issuance of proper electronic invoices is mandatory since 18 May 2022 for large taxpayers with a phased implementation making it mandatory for all taxpayers by 18 October 2023.



Filing of VAT returns



Since January 2020, all VAT returns—whether they are filed monthly, quarterly, or annually — must be submitted electronically. This requires the use of digital certification tools.

The two main platforms are:

- The eCDF platform, i.e., the Platform for the Collection of Financial Data: The filing of VAT returns must be done by completing an online form or uploading an XML file via the eCDF platform.
- The eVAT platform (on MyGuichet.lu) on which the taxable person can file VAT registration applications and view the status of their VAT account online.

Accounting



The Luxembourg VAT law provides that any taxable person must keep accounts in sufficient detail for VAT to be applied and its application checked by the tax authorities. Accounting documents should be stored for a minimum period of 10 years, starting from the 31 December of the year they relate to.



VAT returns deadlines

Turnover	Regime	Periodicity	Legal deadline
Exempt (with no input VAT deduction right)	Simplified	Annual	Before 1 March of the following year
Turnover < €112K	Standard	Annual	Before 1 March of the following year
€112K < Turnover < €620K	Standard	Quarterly	15th day of the month following the quarter
		Annual	Before 1 May of the following year
Turnover > €620K	Standard	Monthly	15th day of the following month
		Annual	Before 1 May of the following year



Penalties:

- Failure to file a VAT return: Lump sum penalty between €250 and €10,000
- Failure to pay or late payment: Up to 10% of tax due per year
- For non-communication of information or documents in due time: Penalty up to €25,000 per day



Exemptions: Art. 43 VAT law

Transactions listed in Article 43 of the Luxembourg VAT law are VAT-exempt; they do not attract Luxembourg VAT. However, even though they are not subject to Luxembourg VAT, they are entitling to the deduction of the input VAT incurred on the costs related to these activities.



Such transactions include, among others:

- Exportation of goods;
- Intra-EU sale of goods;
- Supply of goods and services to the European Community bodies;
- Supply of goods and services related to aircrafts used by airlines operating for reward chiefly on international routes;
- ... etc.

Exemptions: Art. 44 VAT Law

Transactions listed in Article 44 of the Luxembourg VAT law are VAT-exempt. In principle, they do not attract Luxembourg VAT and are not entitling to the deduction of the input VAT incurred on the costs related to such activities. However, input VAT deduction rights are granted for financing and insurance transactions with counterparties established in a non-EU Country (except non-EU AIFs).



Such operations include, among others:

- Most financial services;
- The management of UCITS and AIFs;
- By default, the sale of immovable property, except for the sale of immovable property yet to be built (if such property does not exist at the moment of the sale);
- The provision of insurance services;
- ...etc.



Invoicing requirement



Invoices are very important for VAT purposes. They are a mandatory requirement for VAT taxable persons aiming at recovering the VAT paid in relation to goods/services received from providers.

Invoices can be issued in paper or electronic format. Invoices must be issued at the latest the 15th day of the month following the transaction or the receipt of an advance payment.

Invoices are required, amongst others, in the following cases:

- Supply of goods and/or services to other VAT taxable persons;
- Supply of goods and/or services to non VAT taxable legal body;
- Distance sales of goods (unless a specific scheme is applied);
- When receiving an advance payment.

Invoices should be stored for a minimum period of 10 years, starting from 31 December of the year in which they were included in the VAT return.



VAT rates



Name	Rate	Illustrative goods and services
Standard rate	16%	By default rate
Intermediary rate	13%	Management and safekeeping of securities, publicity and printed marketing matter, cleaning products, etc...
Reduced rate	7%	Gas, electricity, heating, plants and flowers, hairdressing services, etc...
Super-reduced rate	3%	Foodstuffs for human and animal consumption, transport of passengers, supply of books, admission to shows and cultural or educational events, radio and television broadcasting services, etc...

Except for the super-reduced rate of 3%, all rates have been temporarily reduced by 1% in 2023. It is expected that rates in 2024 will raise back to 17, 14, 8 and 3%.





The following are considered taxable transactions for VAT purposes and may trigger VAT reporting requirements:

- **The supply of goods:** The transfer, from the supplier to the client, of the right to dispose of a tangible good;
- **The intra-community acquisition of goods:** Acquisition of the right to dispose as owner of tangible goods from another EU country, when the goods acquired are transported to the client by the supplier or by the purchaser (or by a third party on their behalf);
- **The importation of goods:** Introduction of goods originating from non-EU countries to those within the EU; and
- **The supply of services:** Any supply which does not constitute a supply of goods.

VAT treatment of these taxable transactions will depend on the “place of supply” i.e. the place where the transaction is deemed to be located for VAT purposes.

Place of supply rules		
Type of supply	Additional circumstances	Where is the supply taxed?
Goods	Without transport	Where the goods are
	With transport	Where transport begins
Intra-community acquisitions	–	Where transport ends
Importations	–	Where the goods enter the EU territory
Services	B2C	Where the supplier is established
	B2B	Where the client is established



As per the law, a taxable person is “any person who, independently, carries out in any place any economic activity, whatever the purpose or results”. Economic activity is intended as any business activity, including production, trade, and activities of the professions.

Employees, private individuals, and pure passive holding entities do not qualify as taxable persons for VAT purposes.

Being a taxable person for VAT purposes does not necessarily entail the obligation to register for VAT in Luxembourg. Vice-versa, in certain circumstances, not VAT taxable persons may be required to be VAT-registered.

VAT registration and VAT compliance regimes depend on various factors. You may refer to the table below for an illustration of the potential administrative obligations in Luxembourg:

Do I need to register for VAT in Luxembourg?

Activity	Receipt of taxable services from non- Luxembourg suppliers?	Is VAT registration required?	VAT regime
Shareholding and or interest-free financing	N/A	No	N/A
Interest-bearing financing towards EU borrowers	Yes	Yes	Simplified
	No	No	N/A
Interest-bearing financing towards non-EU borrowers	N/A	Yes	Standard
Leasing of real estate in Luxembourg without VAT option	Yes	Yes	Simplified
	No	No	N/A
Leasing of real estate in Luxembourg with VAT option	N/A	Yes	Standard

Our VAT Partners



Joachim Bailly



Aylin Cam



Antoine Farioli



Raphaël Glohr



Cédric Tussiot

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s more than 345,000 people worldwide make an impact that matters at www.deloitte.com.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

2022 Deloitte Tax & Consulting, SARL

Designed and produced by MarCom at Deloitte Luxembourg.

Deloitte Luxembourg

20 Boulevard de Kockelscheuer
L-1821 Luxembourg
Grand Duchy of Luxembourg
Tel.: +352 451 451