

VAT in the European Community

**APPLICATION IN THE MEMBER STATES,
FACTS FOR USE BY ADMINISTRATIONS, TRADERS,
INFORMATION NETWORKS, ETC.**

Note

This document collates a range of basic information on the application of VAT arrangements in the Member States which has been obtained from the tax authorities concerned.

The sole purpose of distributing details of national provisions is to create a work tool. In no way does this document reflect the views of the Commission of the European Communities. Nor does it signify the conformity of the relevant legislation.

SPAIN

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GENERAL INFORMATION

1. IF A FOREIGN TRADER WANTS TO OBTAIN INFORMATION ABOUT YOUR VAT SYSTEM, WHOM SHOULD HE CONTACT? (ADDRESS, TELEPHONE, FAX, EMAIL)

Foreign traders who want to obtain general information about VAT in Spain may contact the following entities:

Subdirección General de Información y Asistencia Tributaria del Departamento de Gestión de la Agencia Estatal de Administración Tributaria.

c/ Infanta Mercedes, 37

E - 28071 Madrid

Tel. (34 1) 583 89 76

Apartado de Correos 993

E - 28080 Madrid

Tax information is likewise available by telephone at: 901 33 55 33. However, this number may not be used from outside of Spain.

In accordance with the terms of Article 107 of the General Tax Law, there is a more formal way of obtaining information on the tax status of an operation or set of operations whereby taxable persons (queries formulated by lawyers or legal consultants are not permitted unless on behalf of a taxable person) may send their query to:

Subdirección General de Impuestos sobre el Consumo.

Dirección General de Tributos

c/ Alcalá, 5

E - 28014 Madrid

2. WHAT IS THE ADDRESS OF THE NATIONAL TAX ADMINISTRATION WEBSITE? WHICH CATEGORIES OF INFORMATION ON VAT IS AVAILABLE ON THAT WEBSITE (GENERAL INFORMATION, LEGISLATION, CONTACT POINTS, FORMS, ETC.)? AND IN WHICH LANGUAGE(S)?

The address of the Spanish Tax Administration website is: www.aeat.es. Here you will find Spanish rules and legislation, frequently asked questions regarding different taxes, Orders issued by the Tax Directorate-General, etc. It is also possible to obtain the different forms currently in use in Spain, download help programmes, submit returns electronically, etc.

In the section entitled “Foreigners”, useful information may also be found in Spanish (and in some cases in English) regarding laws applicable to non-residents.

3. WHERE IS IT POSSIBLE TO FIND NATIONAL VAT LEGISLATION AND REGULATIONS? IN WHICH LANGUAGE(S) ARE THEY AVAILABLE?

VAT legislation may be found at www.aeat.es, section “*Información tributaria*” (tax information) “*Normativa*” (regulations) “*Impuesto sobre el Valor Añadido*” (value added tax).

The said legal instruments and questions and answers regarding tax issues are likewise available through the Ministry of Finance website (www.minhac.es) under the heading *Dirección General de Tributos* (tax directorate-general).

VAT REGISTRATION OF FOREIGN TRADERS

4. WHAT ARE THE CIRCUMSTANCES GOVERNING THE NEED TO BE REGISTERED FOR VAT?

All entrepreneurs and professionals who must pay VAT relating to transactions undertaken in the territory of application (Spanish mainland and the Balearic Islands) must register for tax payment by submitting a census statement (form 036) where they must indicate the VAT regime under which they choose to operate.

In the case of foreign traders, Spanish law makes distinctions based on the modality under which they operate in Spain:

- Those who have what under Spanish law is referred to as “a permanent establishment in Spain” (i.e. an office in Spanish territory) must apply for an identification number at the tax office or delegation corresponding to them by virtue of the address of the establishment.

- Those that have no permanent establishment must submit their application directly (or through their tax representative, if appropriate) at the tax office or delegation corresponding to the location where they intend to operate.

Traders who do not reside in Spain may apply for their identification number at the consulate or representative office of Spain in their country of residence or origin.

There are no exemptions having regard to one’s duty to register as a taxable person obliged to pay VAT based on turnover thresholds. Notwithstanding the above, the following persons are exempt from such payment:

(a) those who only undertake operations not giving rise to a right of reduction or who only engage in activities subject to the special agricultural regime when their intra-community acquisitions are exempt from the tax;

b) those who only engage in the occasional delivery of new means of transport which are exempt from VAT;

c) those who, without being established in the territory of application of VAT, engage exclusively in operations in which the taxable person is the recipient of the deliveries of goods or the rendering of services; and

d) those who, without being established in the territory of application of VAT, engage exclusively in triangular operation as intermediaries.

No allowances are made for voluntary VAT registration.

5. WHAT ARE THE SITUATIONS WHERE REGISTRATION IS UNNECESSARY BECAUSE THE RECIPIENT OF THE GOODS OR SERVICES IS LIABLE FOR THE TAX? IN SUCH SITUATION, IS IT POSSIBLE TO REGISTER ON A VOLUNTARY BASIS?

Foreign traders who are not established in the territory where Spanish VAT is applicable and who engage in operations in the said territory should not register given that they are not taxable persons liable for payment of the said tax when the recipient of the operations subject to taxation is an entrepreneur or autonomous professional.

The foregoing is applicable except under the following circumstances.

(a) when recipient entrepreneurs or autonomous professionals are not established in Spanish VAT territory either and the services rendered to them are other than those stipulated in Articles 70(1)(7), 72, 73 and 74 of Law 37/1992.

(b) When the goods delivered are those envisaged under Article 68(3)(5) of Law 37/1992.

If the trader not established in the territory is not a taxable person, he may not register for VAT.

6. WHOM SHOULD A FOREIGN TRADER CONTACT TO GET REGISTERED FOR VAT? (DETAILS ABOUT THE DEPARTMENT, INCLUDING ADDRESS, TELEPHONE AND FAX E-MAIL...)

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7. PLEASE DESCRIBE THE DETAILED PROCEDURES (INCLUDING NECESSARY DOCUMENTS) FOR ISSUING VAT IDENTIFICATION NUMBERS, SPECIFICALLY TO FOREIGN TRADERS.

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THRESHOLDS

8. WHICH THRESHOLD DO YOU OPERATE AS REGARDS INTRA-COMMUNITY DISTANCE SELLING UNDER ARTICLE 28B(B)(2006) OF THE SIXTH VAT DIRECTIVE?

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/traders/vat_community/vat_in_EC_annexI.pdf

9. WHICH THRESHOLD DO YOU OPERATE AS REGARDS ACQUISITIONS BY NON-TAXABLE LEGAL PERSONS OR EXEMPT PERSONS UNDER THE SECOND SUBPARAGRAPH OF ARTICLE 3 OF THE SIXTH VAT DIRECTIVE?

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/traders/vat_community/vat_in_EC_annexI.pdf

APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN (NON-EU) TRADERS

10. WHAT ARE THE SITUATIONS IN WHICH THE APPOINTMENT OF A TAX REPRESENTATIVE IS OBLIGATORY?

The appointment of a tax representative is obligatory in those cases where the foreign trader is established in a Community or State where there are no mutual assistance instruments comparable with those existing at Community level. However, it is not necessary to appoint a tax representative in Spain if the trader is established in the Canary Islands, Ceuta or Melilla.

It is also obligatory for entrepreneurs or autonomous professionals established in third territories to appoint a tax representative who is a resident in Spanish territory where the tax is applicable, if they intend to exercise their right to be reimbursed for Value Added Tax which they have paid in Spanish territory where the tax is applicable in accordance with the provisions of the Eighth Council Directive of 6 December 1979.

11. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?

- Any natural or legal person with legal domicile in Spanish territory where the tax is applied may be appointed as a tax representative.
- The representative must be appointed prior to engaging in operations subject to the tax. The Administration must be duly informed of the appointment of a representative.

12. WHAT ARE THE RIGHTS AND OBLIGATIONS OF A TAX REPRESENTATIVE?

Tax representatives must comply with the duties imposed on the taxable persons they represent. However, they do not answer to the Ministry of Finance. It is the non-resident taxable person being represented who bears this responsibility.

13. WHAT ACTION CAN YOU TAKE IN THE EVENT OF FAILURE BY A TRADER IN ANOTHER COUNTRY TO DESIGNATE A TAX REPRESENTATIVE IN YOUR TERRITORY?

In accordance with the provisions of Spanish legislation, failure to comply with the obligation of designating a tax representative constitutes a simple infringement of the tax law.

14. IS IT NECESSARY TO SET UP A BANK GUARANTEE?

No.

APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN TRADERS ESTABLISHED IN THE EU

15. IS IT POSSIBLE TO APPOINT A TAX REPRESENTATIVE?

Foreign traders established in the EU in the Canary Islands, Ceuta or Melilla may, if they so desire, appoint a tax representative in Spain.

16. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?

See the response to question 11.

17. WHAT ARE THE RIGHTS AND OBLIGATIONS OF A TAX REPRESENTATIVE?

See the response to question 12.

18. ARE THERE SITUATIONS WHERE IT IS OBLIGATORY TO SET UP A BANK GUARANTEE?

No.

INVOICING

RULES ABOUT INVOICING

19. WHERE CAN THE RELEVANT RULES (LAWS, REGULATIONS, INSTRUCTIONS, GUIDELINES...) BE FOUND?

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ISSUANCE OF INVOICES

20. CASES WHERE AN INVOICE NEEDS TO BE ISSUED

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21. WHAT ARE THE RULES ON CORRECTIVE INVOICES (CREDIT / DEBIT NOTES)?

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22. WHAT IS THE TIME LIMIT FOR ISSUING INVOICES?

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23. WHAT ARE THE RULES FOR SUMMARY INVOICING?

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24. WHAT ARE THE CONDITIONS IMPOSED ON SELF-BILLING?

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25. IS THERE ANY SPECIFIC RULE IN RELATION TO OUTSOURCING OF INVOICES TO A PERSON WHO IS ESTABLISHED OUTSIDE THE EU?

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CONTENT OF INVOICES

26. UNDER WHAT CONDITIONS MUST THE VAT NUMBER OF THE CUSTOMER BE ON THE TAX INVOICE?

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27. ANY OTHER SPECIFIC RULE IN RELATION TO THE CONTENT OF THE INVOICE

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ELECTRONIC INVOICING

28. AS REGARDS INVOICES SENT WITH ADVANCED ELECTRONIC SIGNATURES, IS IT OBLIGATORY TO USE QUALIFIED CERTIFICATED AND SECURE-SIGNATURE-CREATION DEVICES? IF SO, PLEASE GIVE DETAILS.

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29. AS REGARDS INVOICES SENT BY ELECTRONIC DATA INTERCHANGE, IS AN ADDITIONAL SUMMARY DOCUMENT ON PAPER OBLIGATORY? IF SO, PLEASE GIVE DETAILS ABOUT ITS CONTENT AND PROCEDURE.

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30. DO YOU ALLOW INVOICES ISSUED PURSUANT TO ARTICLE 233, PARAGRAPH 1, SUBPARAGRAPH 2 OF THE VAT DIRECTIVE (“BY USING ANY OTHER ELECTRONIC MEANS”)? IF SO, UNDER WHICH CONDITIONS AND FORMALITIES?

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31. ANY OTHER SPECIFIC RULE IN RELATION TO ELECTRONIC INVOICING

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STORAGE OF INVOICES

32. WHAT ARE THE RULES ON THE PLACE OF STORAGE OF INVOICES?

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33. IS PRIOR NOTIFICATION OF INVOICES STORED IN ANOTHER COUNTRY AN OBLIGATION? IF SO, PLEASE SPECIFY.

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34. WHAT IS THE OBLIGATORY STORAGE PERIOD FOR INVOICES?

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35. WHAT ARE THE SPECIFIC RULES ON STORAGE FORM AND POSSIBLE CONVERSIONS?

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36. ANY OTHER SPECIFIC RULE IN RELATION TO INVOICE STORAGE.

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SIMPLIFIED INVOICES

37. WHAT ARE THE SITUATIONS WHERE SIMPLIFIED INVOICING IS ALLOWED PURSUANT TO ARTICLE 238 OF THE VAT DIRECTIVE (2006/112/EC)? AND WHAT ARE THE SPECIFIC RULES?

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PERIODIC VAT RETURNS

38. UNDER WHAT CIRCUMSTANCES IS A TRADER OBLIGED TO SUBMIT A VAT RETURN?

In principle, all registered operators figuring as taxable persons subject to VAT are obliged to submit quarterly returns (in some cases these are monthly) regardless of whether or not such persons undertook operations during the quarter (or month) in question. Persons who only undertake operations which are tax exempted and who have no right whatsoever to deduct VAT are not obliged to submit returns.

Taxable persons must likewise file an annual summary return to which they must attach copies of all of the returns filed during the year.

39. AT WHAT INTERVALS ARE VAT RETURNS AND ASSOCIATED PAYMENTS TO BE MADE?

The payment period coincides with the calendar quarter. However, the said payment period coincides with the calendar month in the case of the following taxable persons:

- 1) those whose turnover during the previous calendar year exceeded €6,010,121;
- 2) those who are authorised to apply for the return of balances in their favour at the close of each payment period (mostly exporters and traders engaged in operations subject to lower tax rates).

The form approved for each period by the Ministry of Finance must be used for the return and submitted during the first twenty calendar days of the month following that corresponding to the monthly or quarterly payment period.

40. DOES A SPECIAL REGIME AS REGARDS PERIODIC VAT RETURNS EXIST FOR SMALLER TRADERS AND/OR CERTAIN CATEGORIES OF BUSINESS? IF SO, PLEASE DESCRIBE THEM.

Taxable persons who opt for the simplified regime submit their returns using a different form than that used by all other taxable persons. However, the return and payment period is also quarterly and the submission of an annual summary return is likewise required.

41. DO YOU OPERATE SIMPLIFIED CALCULATIONS OF TAX LIABILITY? IF SO, WHAT ARE THE QUALIFYING CRITERIA, TO WHOM DO THEY APPLY AND WHAT IS THE NATURE OF THE SIMPLIFICATION?

The simplified regime is applied to certain operations undertaken by natural persons who did not opt for the general tax regime.

Taxes are calculated by applying indexes based on specific tax data which vary depending on the activity in question. The amount of VAT paid may be deducted from the amounts thus calculated, even if a minimum fee has been established for payment under each activity.

RECAPITULATIVE STATEMENTS

42. AT WHAT INTERVALS ARE RECAPITULATIVE STATEMENTS TO BE SUBMITTED?

Recapitulative statements must be submitted between the 1st and the 20th of the month following the end of each calendar quarter with the exception of the last quarter of the year when it may be submitted between the 1st and the 30th of January.

43. IS ANY ADDITIONAL INFORMATION REQUIRED OTHER THAN THAT SET OUT IN CHAPTER 6 RECAPITULATIVE STATEMENTS OF TITLE XI OF THE VAT DIRECTIVE (2006/112/EC)?

In Spain it is obligatory to indicate intra-community acquisitions and deliveries.

In both cases, the following data must be furnished:

- 1) the identification number of the taxable person in another Member State and his/her full name or corporate name;
- 2) the taxable amount of the transaction;
- 3) in the case of intra-community deliveries, indication of whether the goods were delivered within the framework of a triangular operation.

44. DO YOU OPERATE SIMPLIFIED PROCEDURES AS REGARDS RECAPITULATIVE STATEMENTS AS PROVIDED FOR IN ARTICLE 269 OF THE VAT DIRECTIVE (2006/112/EC)? IF SO, WHAT ARE THE RELATED THRESHOLDS FOR APPLYING SUCH PROCEDURES?

The law does envisage simplified procedures as regards recapitulative statements.

Recapitulative statements covering the period corresponding to the calendar year may be submitted from the 1st to the 30th of January of the following year when the following two circumstances occur:

- the total amount (not including VAT) of the deliveries of goods or rendering of services during the preceding calendar year did not exceed €27,346.
- the total amount of exempt intra-community deliveries of goods other than new means of transport during the preceding calendar year did not exceed €7,813.

ELECTRONIC RETURNS

45. IS IT POSSIBLE TO SUBMIT VAT RETURNS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT STATEMENTS ELECTRONICALLY?

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46. IS IT POSSIBLE TO SUBMIT RECAPITULATIVE STATEMENTS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT STATEMENTS ELECTRONICALLY?

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ADMINISTRATIVE REQUIREMENTS

47. DO YOU OPERATE A FLAT-RATE SCHEME? IF SO, TO WHOM DOES THE SCHEME APPLY?

a) The special regime envisaging a supplementary charge is applied to retail traders who are natural persons or entities operating under the Personal Income Tax special regime for income attribution, engaging in the retail trade of any sort of articles or products which are not exempt under law.

In addition to standard VAT paid for their acquisitions, retail traders who opt for this regime must pay their suppliers a supplementary amount releasing them from any further VAT payment.

These retail traders are not required to issue invoices or other similar documents corresponding to their transactions in the case of retail sales to persons who are not considered taxable persons liable for payment of VAT.

b) Pursuant to the special regime regarding agriculture, livestock and fisheries, the owners of farm, livestock or fishery holdings may formally renounce this special regime when they submit their statement when first commencing their activity or during the month of December preceding the beginning of the fiscal period of application by submitting the corresponding census statement.

Taxable persons who opt for this regime have the right to compensation in the amount of 8% (agricultural or forestry activities) or 7% (livestock or fishery activities) of the value of the deliveries of products obtained through the said holdings.

Taxable persons who opt for this special regime are not subject, as concerns the activities covered in this regime, to settlement or tax payment duties or to registry or accounting obligations.

48. DO YOU OPERATE SIMPLIFIED ADMINISTRATIVE REQUIREMENTS OTHER THAN THOSE ALREADY MENTIONED? IF SO, PLEASE GIVE A DESCRIPTION.

The optional simplified regime is applicable to small entrepreneurs who meet a series of requirements and whose volume of operations is below certain limits. The peculiarity of this regime is that the VAT accrued is calculated by applying objective signs, indices or modules. Entrepreneurs who opt for this regime are exempted, barring exceptions, from the obligation of issuing invoices.

49. IN WHICH LANGUAGE(S) ARE FORMS (PERIODIC VAT RETURNS AND RECAPITULATIVE STATEMENTS) AVAILABLE OR TRANSLATED INTO?

The VAT returns and recapitulative statements are available in Spanish. Only form 361 for the return of VAT paid by certain entrepreneurs or autonomous professionals not established within the territory of application of the tax is available in English and Spanish (Directives 8 and 13).

RIGHT TO DEDUCTION

50. FOR WHICH CATEGORIES OF GOODS AND SERVICES IS THERE NO RIGHT OF DEDUCTION?

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51. ARE THERE CATEGORIES OF GOODS AND SERVICES IN WHICH THERE IS A PARTIAL RIGHT OF DEDUCTION? IF SO, WHAT IS THE PERCENTAGE?

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ANNEX 1: THRESHOLDS

http://europa.eu.int/comm/taxation_customs/taxation/vat/traders/vat_community/index_en.htm#annexI

ANNEX 2: VAT IDENTIFICATION NUMBERS

http://europa.eu.int/comm/taxation_customs/taxation/vat/traders/vat_community/index_en.htm#annexII

ANNEX 3: ABBREVIATIONS

http://europa.eu.int/comm/taxation_customs/taxation/vat/traders/vat_community/index_en.htm#annexIII