

INFORMATION - Luxembourg

Use and Enjoyment - VAT Directive 2006/112/EC - Article 59a

In Luxembourg, there is a use and enjoyment rule applicable to telecommunications and broadcasting services provided to non-VAT taxable persons. Accordingly, if the place of supply is Luxembourg but the service is used and enjoyed outside the EU, it is not subject to Luxembourg VAT.

Reference to the above may be found in Article 17.3.1° of the Luxembourg VAT Law.

Time of supply / chargeability - Deferment and Cash Accounting Scheme - VAT Directive 2006/112/EC - Article 66

In Luxembourg, telecommunications, broadcasting and electronic services become chargeable in accordance with the normal rules provided for under Directive 2006/112/EC.

Reference to the above may be found in Articles 21-24 of the Luxembourg VAT Law.

Time of supply / chargeability - Continuous supplies - VAT Directive 2006/112/EC - Article 64(2)

In Luxembourg, continuous supplies of services are taxable in accordance with the general principles laid down in Directive 2006/112/EC, detailed in Article 22 of the Luxembourg VAT law.

Re-valuation of services at open market value - VAT Directive 2006/112/EC - Article 80

Luxembourg has not implemented provisions in its VAT legislation pursuant to which the taxable amount (of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons) may be deemed to be the open market value.

Bad Debt relief - VAT Directive 2006/112/EC - Article 90

The Luxembourg VAT Law provides for the adjustment of the taxable amount in case of total or partial non-payment from the customer, referred to in Article 33 of the Luxembourg VAT Law. Further detail of the conditions and form of such adjustments are found in Règlement Grand-Ducal of 21 December 1979.

Application of reduced VAT rates - VAT Directive 2006/112/EC - Article 98

In Luxembourg, broadcasting services, except where the content is addressed exclusively to adults, are subject to the super-reduced rate of 3%. For any other services the standard rate of 17% should apply.

Reference to the above may be found in Article 40 of the Luxembourg VAT Law.

Standard VAT Rate - VAT Directive 2006/112/EC - Article 96-97

In Luxembourg the standard VAT rate is 17%.

Release from payment of insignificant amounts of VAT - VAT Directive 2006/112/EC - Article 212

Luxembourg has not implemented a rule under its domestic legislation whereby taxable persons are released from the payment of VAT where the amount due is insignificant. There is however a special VAT regime for small businesses established in Luxembourg with an annual turnover below 25.000 EUR per year, detailed in Article 57 of Luxembourg VAT law.

Invoicing Obligations - Obligation to issue an invoice - VAT Directive 2006/112/EC - Articles 217-249

In Luxembourg, there is no obligation to issue a VAT invoice for supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Content of an invoice - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Time limit for issuing an invoice - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Summary Invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Batch of electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Additional obligations deemed necessary for collecting VAT and preventing evasion (anti-avoidance measures) - VAT Directive 2006/112/EC - Article 273

Luxembourg has not implemented any rules or anti-avoidance measures that may directly impact telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Stand-still scheme - Derogations for States which were members of the Community on 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

There are no provisions which are applicable under a Stand-still Scheme in the Luxembourg VAT legislation or subject to common practice in Luxembourg that may be relevant for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Stand-still scheme - Derogations for States which acceded to the Community after 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

N/A

VAT Treatment of vouchers

VAT treatment of vouchers is not expressly regulated by the Luxembourg VAT Law. However, the principles laid down by the CJEU (e.g. Boots case C-126/88, Elida Gibbs C-317/94, Argos C-288/94), are commonly applied. Specific guidance has been provided by the VAT authorities with regard to prepaid cards for telecommunications services whereby telecommunications credits are taxable upon usage.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (E-learning activities)

E-learning activities falling within the scope of electronic services do not qualify for a VAT exemption unless made by a body, school, university or college which is either created by virtue of a law or is authorised and regulated by a public authority.

The conditions for the education exemption generally may be found in Article 44(1)(q) of the Luxembourg VAT law.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (Gambling activities)

Gambling activities falling within the scope of electronic services do not (in principle) qualify for a VAT exemption. The conditions for an exemption to be applied to gambling activities may be found in Article 44(1)(j) of the Luxembourg VAT law.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (General)

There are further exemptions in the Luxembourg VAT legislation under which the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons may fall, but the application of such additional exemptions would depend on the nature of the services provided.

VAT Registration Process

To register under the MOSS, the taxable person shall need first to obtain a "LuxTrust" card and register for access to the eTVA system of the Luxembourg VAT Authorities. Requirement to register and details of the registration process are found in Article 56quinquies for non-EU suppliers and Article 56sexies for EU suppliers in the Luxembourg VAT law.

Useful links for information:

<http://www.guichet.public.lu/entreprises/en/fiscalite/tva/vatmoss/vatmoss-inscription/index.html>

http://www.aed.public.lu/tva/commerce-electronique/aed_introduction-vatmoss.pdf

Access to web-portal and contact details of the local VAT Authorities

The link for the MOSS website is www.vatmoss.lu. It can be used by both EU and non-EU suppliers.

General Contact:

e-mail: viviane.ries@en.etat.lu

Contact VAT obligations and reimbursements:

Ms Chantal DITTGEN

Administration de l'Enregistrement et des Domaines

14, Avenue de la Gare, L-1610 Luxembourg

tel: +352 247-80727

e-mail: vatmoss@en.etat.lu

Mr Ronny PETER

Administration de l'Enregistrement et des Domaines

1-3, Avenue Guillaume, L-1651 Luxembourg

tel: +352 247-80482

e-mail: vatmoss@en.etat.lu

Mr Christophe HEINEN

Administration de l'Enregistrement et des Domaines

1-3, Avenue Guillaume, L-1651 Luxembourg

tel: +352 247-80483

e-mail: vatmoss@en.etat.lu

Appointment of a VAT Agent

Appointment of an agent is allowed as of March 2015.

Penalties for non-compliance (Failure to register and late registration)

The applicable penalty for non-registration or late VAT registration ranges between EUR 250 and EUR 10,000 (as from 1 January 2017). If non-registration or late registration leads to tax being eluded, fraud penalty ranges between 10% and 50% of the eluded amount.

Reference to the above may be found in Article 77 of the Luxembourg VAT Law.

Penalties for non-compliance (Non-payment and late payment of VAT)

The applicable penalty for non-payment or late payment of VAT ranges between EUR 250 and EUR 10,000 (as from 1 January 2017). Where VAT has been eluded, fraud penalty ranges between 10% and 50% of any eluded (non-paid/late paid) amount.

Reference to the above may be found in Article 77 of the Luxembourg VAT Law.

Penalties for non-compliance (Non-submission and late submission of VAT returns)

The applicable penalty for non-submission or late submission of VAT returns ranges between EUR 250 and EUR 10,000 (as from 1 January 2017). Where VAT has been eluded by non-submission or late submission of VAT returns, fraud penalty ranges between 10% and 50% of any eluded (non-paid/late paid/refunded) amount.

Reference to the above may be found in Article 77 of the Luxembourg VAT Law.

Penalties for non-compliance (Incomplete and incorrect VAT returns)

The applicable penalty for incomplete or incorrect VAT returns ranges between EUR 250 and EUR 10,000 (as from 1 January 2017). Where VAT has been eluded by filing incomplete or incorrect VAT returns, fraud penalty ranges between 10% and 50% of any eluded (non-paid/late paid/refunded) amount.

Reference to the above may be found in Article 77 of the Luxembourg VAT Law.

Penalties for non-compliance (Non-compliance with invoicing and accounting obligations)

The applicable penalty for not complying with VAT obligations ranges between EUR 250 and EUR 10,000 (as from 1 January 2017). Where VAT has been eluded through non-compliance with invoicing or non-compliance with accounting obligations, fraud penalty ranges between 10% and 50% of any eluded (non-paid/late paid/refunded) amount.

Reference to the above may be found in Article 77 of the Luxembourg VAT Law.