

INFORMATION - France

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

In France, there are no use and enjoyment rules applicable with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons in accordance with Article 59a of consolidated Directive 2006/112/EC.

Reference to the above may be found in Article 259 D of the French Tax Code.

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

In France, the tax point (chargeability) for services occurs at the time of the payment, except if an option has been made (in accordance with Art. 66 a) of VAT Directive).

The general rules for supplies of services apply to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons: VAT is due at the date of the effective payment (including payment of instalments).

However, in accordance with Art. 66 a) of VAT Directive, the supplier may opt for chargeability upon the issuance of the invoice ("*option pour les débits*" rule).

Reference to the above may be found in Article 269 2-c of the French Tax Code (CGI).

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

In France, continuous supplies of services are taxable in accordance with the general principles laid down in Directive 2006/112/EC.

However, for continuous supplies of services over a period of more than one year calendar, subject to reverse charge mechanism, which do not give rise to instalments or continuous payments during that period, tax event occurs on expiry of each calendar year until such time as the supply of services comes to an end.

Reference to the above may be found in Article 269, 1-a quater of the French Tax Code and Article 269 2-b bis of the French Tax Code.

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

France 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) is deemed to be the open market value.

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

In France, bad debt relief can be claimed if the debt is considered as definitively irrecoverable or a judicial insolvency has been declared by the Court. The supplier needs to be in a position to demonstrate the irrecoverability and needs to issue rectifying invoices. For supplies to non-VAT taxable persons, a debt may be considered as definitively irrecoverable where the client has left their place of residence without leaving a follow-up address, is deceased or has paid for example with a stolen cheque. For services, bad debt relief can be claimed only if the supplier has collected VAT i.e. if the supplier has elected for VAT collection on accrual basis ("*option pour les débits*" rule).

In case of bounced cheques, the tax point has not occurred and the supplier could correct its output VAT.

Reference to the above may be found in Article 272.1. of the French Tax Code and BOI-TVA-BASE-20-20.

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

Television broadcasting is subject to a VAT intermediate rate of 10%. Content provided on demand or for non-simultaneous viewing is not considered as television broadcasting and are subject to the normal rate of 20%. Where television broadcasting is included in a global package also comprising electronic services, the normal VAT rate of 20% is applicable in principle to the overall package. By derogation, the VAT rate of 10% may remain applicable to the part of the package corresponding to the television broadcasting under certain circumstances.

E-books and audio books, benefit from the VAT reduced rate of 5.5% provided that they do not contain additional functions that are not available in paper editions (they can however differ from the printed edition by a few ancillary elements inherent to their format such as associated search engine or scrolling function). A reduced rate of 10% applies to the disposal of author's rights.

E-newspapers are subject to the reduced VAT rate of 2.1%, provided that they fulfil the definition of press publications (as agreed by the "Commission paritaire des publications et Agences de Presse").

For any other services the standard rate of 20% should apply.

Reference to the above may be found in Articles 279 b octies and g, 278-0 bis A 3°, and Article 298 septies of the French tax code as well as French Tax guidelines (BOI-TVA-SECT-40-40, BOI-TVA-LIQ-30-20-100, BOI-TVA-LIQ-30-10-40).

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

In France the standard VAT rate is 20%.

Reference to the above may be found in Article 278 of the French Tax Code.

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

France has not implemented rules under its domestic legislation whereby taxable persons are released from the payment of the VAT where the amount due is insignificant for companies not established in France.

Reference to the above may be founded in tax guidelines BOI-TVA-DECLA-40-10-10.

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

No invoice is required for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the French VAT legislation.

However, such an invoice may be required according to other regulations. Therefore, specific attention should be kept on this issue. It is, for exemple, required under French Commercial law to issue an invoice if the amount of the supplies of services is equal or exceeds EUR 25 (including VAT) or when the customer requests it.

Other commercial law/ consumer regulation, may be applicable.

Reference to the above may be found in Article 289, I-1 of the French Tax Code, in Article L. 441-3. of the French Code of Commerce and Decree dated 15 July 2010.

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

No invoice is required for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the French VAT legislation.

Under commercial law, some specific data should be mentioned on the invoice, such as, name and adress of the supplier and purchaser, date of the supply of services, unit price exclusive of VAT, price including VAT etc.

In addition, as regards electronic communication services, French Commercial Law (specifically "*Arrêté*" of 31 December 2013) requires that any invoice should notably include (as from 1 April 2015):

(i) the total amount including VAT and corresponding VAT basis;

(ii) the total amount including VAT of the services provided by the operator and the corresponding VAT basis;

(iii) the total amount including VAT of the services rendered by third parties and corresponding VAT basis.

The invoice shall comprise two sections, one referring to the services rendered by the operator and another one to the services rendered by third parties.

(iv) the total price inclusive of VAT to be paid and the applicable VAT rate.

Electronic communication services are "services normally provided for remuneration which consist wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting". This concept excludes "services providing or exercising editorial control over content transmitted using electronic communications networks and services" (definition provided by Directive 2002/21 and implemented in Article L. 32, 6° of the Code of Posts and Electronic communications to which the "*Arrêté*" of 31 December 2013 refers). Electronic communication services cover notably telecommunications (including phone communications via internet), supply of e-mail box and internet access supply.

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

No invoice is required for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the French VAT legislation.

Under commercial law, the invoice should be issued at the time the service is performed and, in any case, before the payment. In addition, as regards electronic communication services, French Commercial Law specifies that the customer has the right to receive an invoice before payment (free of charge).

Other commercial law/ consumer regulation, may be applicable.

Reference to the above may be found in Article L. 441-3. of the French Code of Commerce and "*Arrêté*" of 31 December 2013 and "*Arrêté*" of 3 October 1983.

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 (only a commercial invoice) in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Other commercial law/ consumer regulation, may be applicable.

Reference to the above may be found in French Tax Guideline BOI-TVA-DECLA-30-20-20.

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

No invoice is required for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the French VAT legislation.

Under commercial law, as regards electronic communication services, invoices can be issued under paper or electronic format. However, the recipient must be informed, at the time of subscription, of the format chosen by the supplier. Moreover, invoices should be issued under paper format, for no additional charge, should the recipient request the supplier to do so.

Other commercial law/ consumer regulation, may be applicable.

Reference to the above can be found in Article 3 of "Arrêté" of 31 December 2013.

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

No invoice is required for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the French VAT legislation.

French Commercial Law (namely the "Arrêté" of 31 December 2013) provides that if all the electronic communications services included in the offer are prepaid, the supplier can deliver a single document summarizing the 24 months, or for a lesser period, forthcoming payments, instead of an invoice.

Other commercial law/ consumer regulation, may be applicable.

Reference to the above can be found in Article 3 of "Arrêté" of 31 December 2013.

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

France 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 French VAT legislation or subject to common practice in France 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

There are specific rules in the French VAT legislation with respect to vouchers (with no face value). These rules also apply to electronic vouchers.

Prepaid telephone cards or refills are currently treated as sales of telecommunication services (French tax guidelines BOI-TVA-CHAMP-20-50-50-20141020, n° 310) and should not fall within the scope of the regulations concerning vouchers. For Single Purpose Vouchers (vouchers that can be redeemed against one specific service) VAT becomes due upon sale and in accordance with the VAT rules applicable to the underlying transaction to which the voucher relates.

For Multi-Purpose Vouchers (vouchers that can be redeemed against several different services): the sale of the vouchers is outside the scope of VAT. VAT becomes due upon redemption. Under the current legislation, the vouchers' specific rules do not apply to prepaid telephone cards.

Reference to the above may be founded in French Tax Guidelines BOI-TVA-CHAMP-10-10-10.

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

VAT exemptions apply to e-learning services (provided that the learning is supplied by specific private or public bodies falling within the scope of Article L 444-1 to 444-11 of Education Code) (Article 261, 4-4° a of the French Tax Code). E-learning involves that there is no physical presence of the teacher at the place where the teaching is received except on an occasional basis or for certain exercises only. Both public and private bodies can supply VAT-exempt e-learning. E-learning private organizations are subject to declaration and authority of the Minister in charge of education and training. The e-learning services covered by the VAT-exemption are as follows: primary, secondary, technical or superior educational services.

Reference to the above may be found in French Tax Guidelines BOI-TVA-CHAMP-30-10-20-50 and BOI-TVA-CHAMP-20-50-50.

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

Since the entry into force of the Law n°2010-476 dated 12 May 2010, Article 261 E 2° of the French Tax Code exempts from VAT the revenue of bets on sport events and online gambling, with the exception of remunerations received by organizers and intermediaries participating in the organization of these games and bets.

The French guidelines (BOI-TVA-CHAMP-30-10-10) have been updated on March 4, 2015, notably as regards the computation method of the taxable basis.

In this regards, the Tax Authorities just confirmed that the taxable basis is made up of the bets minus (i) the particular French State levies applicable to games and (ii) payout. Moreover, these VAT guidelines addressed the question in relation with bonus: the payout includes the various bonuses granted to players (e.g. subscription incentive, additional money repaid to players by the organizers).

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

There are no further exemptions in the French VAT legislation under which the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons may fall.

VAT Registration Process

In order to be identified for the MOSS, the taxable person must have a valid "*Espace profession*" (taxable persons' professional tax account) to access to e-services on the French professional tax web portal www.impots.gouv.fr. and have opted for the service "*consulter: compte fiscal*". The taxable person must log in with the codes provided by the management office and fill in the required information. When done, an activation code is sent to the taxable person. The taxable person has to activate his account by typing the provided activation code and fill in the bank account details fields. When done, the professional online account is created allowing the taxable person to access the tax summary feature with his electronic address and the password that he has chosen.

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

The e-service "*Access the mini-one stop shop*" is available via the taxable person's professional tax account on the French professional tax web portal www.impots.gouv.fr. A registration form can then be completed and submitted online.

Registration details to be provided :

Individual VAT Identification Number ;

Company name ;

Address ;

E-mail address and Website ;

Contact name;

Contact's telephone number ;

Bank account details ;

Date from which scheme will apply ;

Activity type.

Nature of commercial activity.

There are no differences between access to the web portal for French and Non-EU suppliers.

Queries may be directed to tva.e-services@dgif.finances.gouv.fr.

General Contact:

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Appointment of a VAT Agent

Declarations can be filed through an agent acting in the name and on behalf of the taxable person.

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

There should be no particular penalty applicable for non-registration and/or late registration in respect of supplies of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons. However, the normal penalties for non-payment and late payment of VAT, and non-submission and late submission of VAT returns, would apply in case of non-registration or late registration.

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

Non-payment and/or late payment of VAT should trigger a penalty of 5% of the VAT amount due plus late payment interests of 0.40% per month.

Reference to the above may be found in Articles 1727, and 1731 of the French Tax Code.

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

Non-submission or late submission of the VAT returns should be subject to a penalty of 10% of the amount of VAT due (if no reminder is sent by the French Tax Authorities or within 30 days following the receipt of such a reminder). If the return is not sent within 30 days upon the reminder, the penalty could be of 40% or even of 80% of the VAT amount due in case of discovery of a fraudulent activity (Article 1728 of the French Tax Code). In addition, late payment interest would be applicable (0.40% per month).

Reference to the above may be found in Articles 1727, IV-1 and 1728 of the French Tax Code.

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

Incomplete or incorrect information reported on French VAT returns and used for the determination of the VAT due are subject to a 40% penalty of the VAT amount due in case of bad faith. The penalty is increased to 80% in case of abuse of law or fraud or dissimulation of part of the price agreed upon in an agreement (Article 1729 of the French Tax Code).

Minor infringements (with no impact on the VAT due), however, would normally trigger a penalty of EUR 15 (said penalties should reach a minimum of EUR 60 in order to be applicable and should not exceed a maximum of EUR 10,000) (Article 1729 B of the French Tax Code).

Reference to the above may be found in Articles 1727, IV-1, 1729 and 1729 B of the French Tax Code.

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

Any omission or incorrectness on invoices is subject to a penalty of EUR 15. The total amount of the penalties due for each invoice cannot exceed one quarter of the amount which is or should have been stated on the invoice.

Reference to the above may be found in Article 1737 of the French Tax Code.