



Grant Thornton

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# International indirect tax guide

2016



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# Ready to respond: Managing complexity and change in indirect taxation

Indirect taxation is becoming ever more complicated, varied between jurisdictions and prone to government tinkering. And, the bar for compliance is rising all the time. Getting on top of the complexity and change is not only vital in avoiding mistakes, audits and disputes, but also enabling your business to move into new markets and manage cash flows efficiently. So how can your business put management of indirect tax onto a sustainable footing?

It's now five years since the landmark Hudson Highland Group settlement in the US that was indicative of the transformation of the ground rules for sales and use tax (SUT), value added tax (VAT), goods and services tax (GST) and other indirect tax compliance.

The Securities and Exchange Commission (SEC) had moved against Hudson Highland because of what it deemed to be the company's 'failures to maintain appropriate internal controls' and underlying lack of 'accounting software capable of calculating the amounts of sales taxes owed'.<sup>1</sup>

Up until then, the authorities had primarily focused on whether the amounts of indirect tax being collected, paid and reclaimed were reasonable. The SEC order took regulatory demands to a new level by not only requiring companies to justify the numbers if challenged, but also demonstrate that the data, systems, processes and controls for carrying out the calculations are fit for purpose.

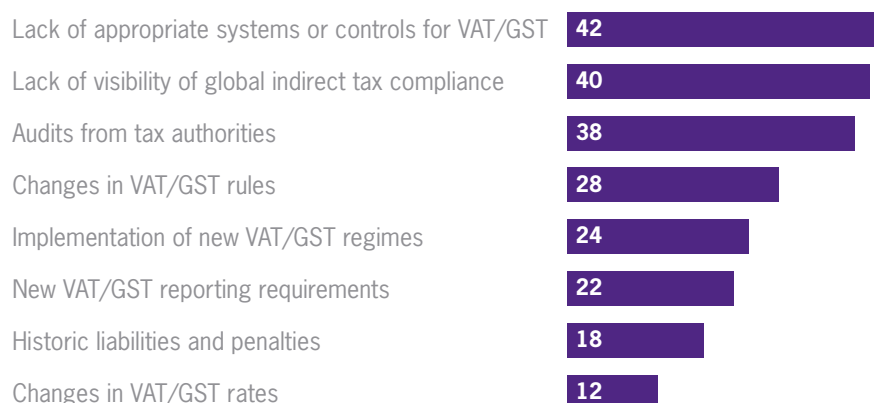
Many other governments, regulators and tax authorities quickly followed the US lead, for example Senior Accounting Officer (SAO) rules in the UK. And ten years on, the impact of these new demands still reverberates around indirect tax teams across the globe. When we recently asked members of our VAT Club 'what's keeping you awake at night', they said that their number one worry is a lack of appropriate systems or controls for VAT/GST (see Figure 1).



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<sup>1</sup> SEC Accounting and auditing enforcement Release No. 3226 – 10 January 2011



**Figure 1 – What indirect tax issues keep you awake at night? (%)**

Source: 50 companies taking part in the Grant Thornton VAT Club Survey 2015

### State of flux

The complications of indirect tax compliance have been further heightened by the frequent shifts in rates, rules and how they're applied.

Many governments have been lowering corporate tax in a bid to attract inward investment, while raising indirect tax rates to compensate for the loss of revenue. The rapid growth in the digital economy and ever more extended global supply chains have in turn increased the number of countries in which even relatively small companies have a taxable presence. With this presence or 'nexus' comes the need not only to register for indirect tax, but understand the vagaries of the local rules and ensure appropriate systems and controls are in place to calculate and report the right amounts at the right times.

### Towards self-assessment

Now we're at a fresh watershed as the focus of taxation as a whole shifts from where goods and services are sourced to where they're consumed. This is reflected in recently endorsed new OECD International VAT/GST Guidelines. Within indirect taxation, this trend is already reflected

in the growing adoption of 'reverse charge mechanisms' (sometimes referred to as 'tax shift' or 'self-assessment'), both for domestic and international business-to-business transactions. Under this approach, the receiving business calculates and pays the indirect tax on behalf of the supplier. While reverse charge mechanisms can often simplify compliance and negate the need for a business to register in foreign jurisdictions,

Reverse charge mechanisms can ease the compliance burden on companies that supply a number of different markets by reducing the amount of jurisdictions in which they have to register and report. But there is often an accompanying compliance burden to evidence that the reverse charge can indeed apply, eg obtaining, validating and retaining customer VAT numbers. In addition, the companies they sell to face more complex and extended calculation, monitoring and self-assessment.

And now that the OECD's Base Erosion and Profit Shifting (BEPS) Action Plan has recommended that more jurisdictions introduce a reverse charge mechanism for cross-border business-to-business transactions<sup>2</sup>, the direction of travel is clear.

<sup>2</sup> OECD/G20 Base Erosion and Profit Shifting Project 'Addressing the Tax Challenges of the Digital Economy' Action 1: 2015 Final Report



### Feeling the strain

The result is an indirect tax landscape in which change is the only constant. Our VAT Club survey not only highlights the pressure on systems and controls, but also participants' concerns over the lack of visibility of global indirect tax compliance and the risk of audit by tax authorities.

Indirect tax has generally been managed by country or regional teams. But they may lack the scalable skillsets and capabilities needed to deal with new market entry and changing legislation or the bird's eye view of the organisation-wide requirements to proactively manage the compliance and reputational risks. In turn, enterprise resource planning (ERP) systems can often struggle with the frequency of registrations and modifications, especially as the hundreds of code changes needed every year have to be identified and generally inputted manually by IT resources.

### Firm foundations

So how can your business create the capabilities needed to manage this myriad of fast-changing demands? Drawing on our survey findings, our work with clients and analysis of the trends in indirect tax regulation, we believe there are five key steps to getting compliance on track:

#### 1. Central team to anticipate changes and develop proactive response

A central teams of indirect tax specialists can liaise with business units to prepare for new market entry and identify upcoming changes in the tax rules.

Some organisations are moving indirect tax into shared service centres to reduce costs and speed up reporting. Others are setting up dedicated centres of excellence. Either way, central co-ordination is vital.

Teams on the ground will still be necessary in some larger markets, but the general compliance and strategic tax policy work can be streamlined and centralised. The advantages of a centralised approach include more systematic compliance, focused use of resources and closer alignment with business strategy. Centralised team can also identify, share and apply best practices from around the organisation.

#### 2. Augment ERP with dedicated tools

Bolting dedicated indirect tax management tools onto ERP systems can make it easier to manage changes and new registrations across multiple jurisdictions, while reducing the need for manual entry.



### **3. Workflow management tools to plan and track payments**

With so many moving parts, it's important to have visibility over what's required, when, and whether the demands are being met on time. The advantages not only include more assured compliance, but also improved cash flows through closer alignment between payments and refunds.

### **4. Close co-operation with sales teams**

Sales teams often hold some of the most important indirect tax sensitive data such as VAT/GST registration numbers, exemption certificates, contractual term, and address information. It's therefore vital that your indirect tax teams work with their colleagues in sales to collate, validate, store and share the master data. In turn, input from indirect tax specialists will be increasingly important in the assessment and development of pricing and market entry strategies.

### **5. Blueprint of documentation to demonstrate compliance**

Among the biggest risks are patchy or ad hoc documentation. It's therefore important to develop a systematic approach to systems mapping and evidence gathering, which includes a blueprint for how compliance is maintained, the procedures for changes and how these are overseen.

### **Up to speed**

The yardstick for indirect tax compliance is no longer just the sums, but the validity of the calculations and the tax function behind them. And while the goals posts keep moving, the onus is very much on your business to prove that you have the systems, processes and controls to keep up to speed.

Greater centralisation, supported by strategic technology tools and closer co-operation with business teams, are at the heart of the more systematic and proactive indirect tax management approach needed to comply. Managing indirect tax will still be demanding, but simply relying on existing approaches and capabilities will make it far more risky and taxing than it needs to be.



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# Customs duty

It is important to note the interaction between customs duty and other indirect taxes. Customs duty is levied on the value of goods imported (and sometimes exported) into a country. There are four key areas of customs compliance:

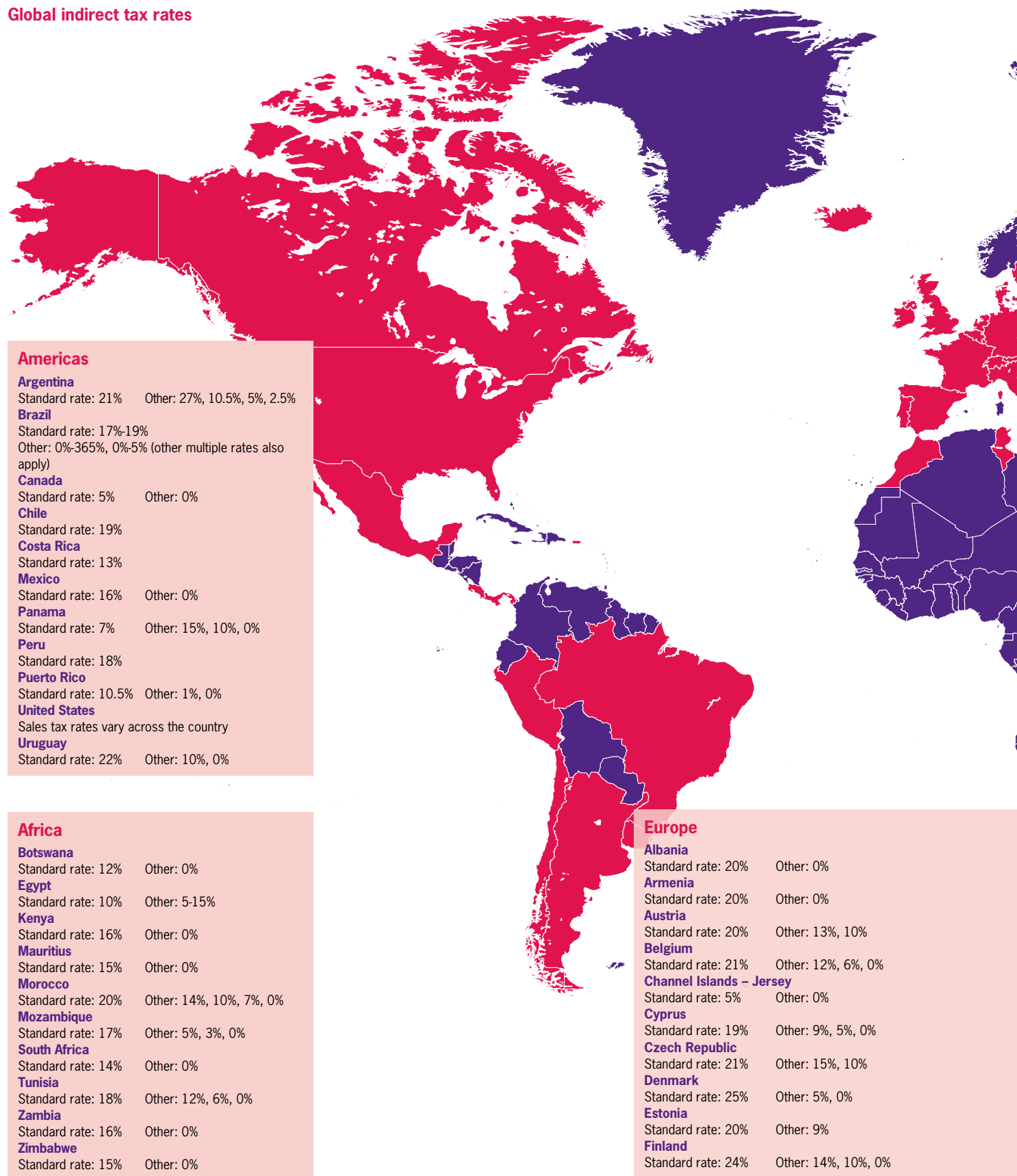
- **Classification** – Each product attracts a commodity code, which is partially harmonised globally. This commodity code indicates the rate of duty to be paid at import or export, as well as any restrictions associated with the product.
- **Valuation** – Although the rules for determining the customs value of goods are harmonised amongst World Trade Organisation (WTO) members, countries are free to include or exclude certain items such as freight and insurance from the customs value. It is therefore vital that traders understand the valuation rules in the territories in which they carry out import or export formalities.
- **Origin** – The origin of a product is determined by a framework of rules set out by the WTO and implemented at a national level. The rules determine the origin of goods, which is used in the allocation of quotas and other types of restrictions.
- **Preference** – Rules of origin for preferential duty rates (either by way of unilateral preference schemes or a Free Trade Agreement) are usually an enhanced version of the standard rule of origin. The aim is to ensure that in return for a duty reduction, goods are genuinely made or processed in the country from which they are exported.

Unlike some other indirect taxes, customs duty is generally not recoverable and represents a bottom line cost business. It is therefore important to ensure that the correct rate of duty is applied. There are special arrangements and procedures that permit the importation of certain goods under favourable or simplified conditions. These depend on the nature of the goods, their origin, as well as the designated use of the imported goods, such as if they are used in the manufacture (processing) of an (alternative) final product.

Duty rates vary globally, with some countries using customs duties to account for a large proportion of its fiscal revenue. A robust approach to customs compliance is essential to any business involved in international trade to ensure you pay the correct amount of duty. Incorrect application of customs rules and regulations can result in under or over payments and in back-dated duty demand. Different countries treat infringements differently, with some treating customs infringements as a serious crime resulting in civil penalties and in the worst case scenario criminal prosecution.



## Global indirect tax rates



## Middle East

### Kuwait

Standard rate: No VAT system  
Other: No VAT system

## Asia Pacific

### Australia

Standard rate: 10% Other: 0%

### Bangladesh

Standard rate: 15% Other: 7.5%, 5.5%, 5%, 4.5%, 0%

### Cambodia

Standard rate: 10% Other: 0%

### China

Standard rate: 17% Other: 0%-13%

### India

Standard rate: 1% to 15%  
India has a dual taxation structure, which results in the levy of multiple indirect taxes by the central and state government(s).

### Indonesia

Standard rate: 10% Other: 0%-4%

### Japan

Standard rate: 8%

### South Korea

Standard rate: 10% Other: 0%

### Malaysia

Standard rate: 6% Other: 0%

### New Zealand

Standard rate: 15% Other: 0%

### Pakistan

Standard rate: 17% (goods), 14-16% (services)  
Other: 0%

### Philippines

Standard rate: 12% Other: 0%

### Singapore

Standard rate: 7% Other: 0%

### Taiwan

Standard rate: 5% Other: 20/25%, 2%, 1%, 0%

### Thailand

Standard rate: 7% Other: 0%

### Vietnam

Standard rate: 10% Other: 5%, 0%

### France (Corsica<sup>1</sup> and Overseas territories<sup>2</sup>)

Standard rate: 20% (20%<sup>1</sup> and 8.5%<sup>2</sup>)  
Other: 10%, 5.5%, 2.1% (13%, 10%, 2.1%, 0.9%)<sup>1</sup>, (2.1%, 1.75%, 1.05%)<sup>2</sup>

### Germany

Standard rate: 19% Other: 7%

### Greece

Standard rate: 23% Other: 13%, 6%

### Hungary

Standard rate: 27% Other: 18%, 5%

### Iceland

Standard rate: 24% Other: 11%, 0%

### Ireland

Standard rate: 23% Other: 13.5%, 9%, 4.8%, 0%

### Italy

Standard rate: 22% Other: 10%, 5%, 4%, 0%

### Kazakhstan

Standard rate: 12% Other: 0%

### Latvia

Standard rate: 21% Other: 12%, 0%

### Liechtenstein

Standard rate: 8% Other: 3.8%, 2.5%

### Luxembourg

Standard rate: 17% Other: 14%, 8%, 3%

### Macedonia

Standard rate: 18% Other: 5%

### Malta

Standard rate: 18% Other: 7%, 5%, 0%

### The Netherlands

Standard rate: 21% Other: 6%, 0%

### Poland

Standard rate: 23% Other: 8%, 5%

### Portugal (Madeira<sup>1</sup> and Azores<sup>2</sup>)

Standard rate: 23% (22%<sup>1</sup> and 18%<sup>2</sup>)  
Other: 13% (12%<sup>1</sup> and 9%<sup>2</sup>), 6% (5%<sup>1</sup> and 4%<sup>2</sup>)

### Romania

Standard rate: 20% Other: 9%, 5%

### Russia

Standard rate: 18% Other: 10%, 0%

### Serbia

Standard rate: 20% Other: 10%, 0%

### Slovakia

Standard rate: 20% Other: 10%

### Spain

Standard rate: 21% Other: 10%, 4%

### Sweden

Standard rate: 25% Other: 12%, 6%

### Switzerland

Standard rate: 8% Other: 3.8%, 2.5%

### Turkey

Standard rate: 18% Other: 8%, 1%

### Ukraine

Standard rate: 20% Other: 7%, 0%

### United Kingdom

Standard rate: 20% Other: 5%, 0%

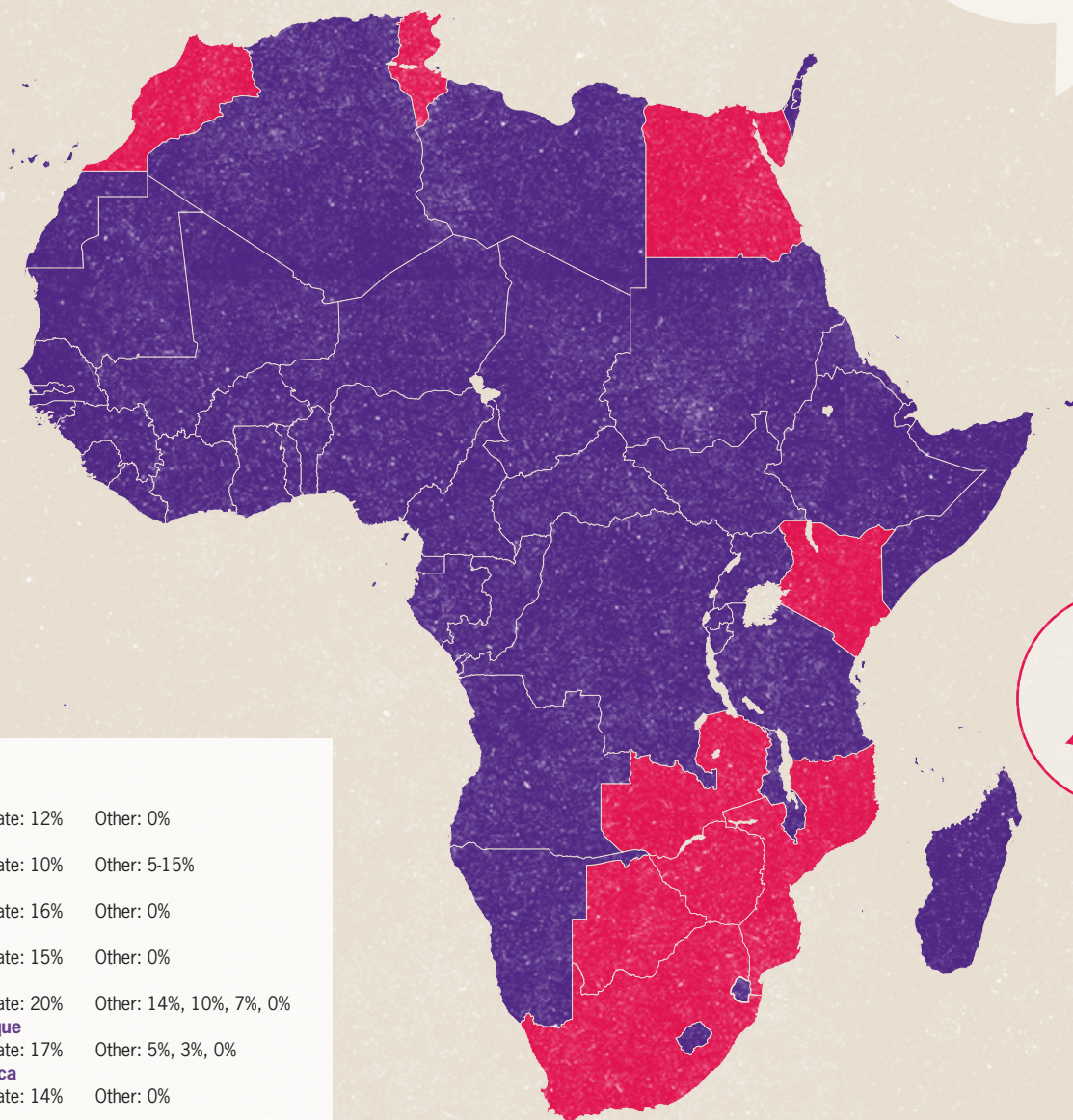


# Indirect tax overview

## – Africa

In South Africa, there has been huge debate in the country that came about as a result of the Davis Tax Committee's suggestion to increase the standard rate in order to make up the fiscal deficit. This was only a recommendation by the committee and it is not clear if the government will decide to increase the rate.

The Egyptian government have announced the introduction of a VAT law that will replace the existing general sales tax system. However, the implementation dates have yet to be set.



### Africa

#### Botswana

Standard rate: 12% Other: 0%

#### Egypt

Standard rate: 10% Other: 5-15%

#### Kenya

Standard rate: 16% Other: 0%

#### Mauritius

Standard rate: 15% Other: 0%

#### Morocco

Standard rate: 20% Other: 14%, 10%, 7%, 0%

#### Mozambique

Standard rate: 17% Other: 5%, 3%, 0%

#### South Africa

Standard rate: 14% Other: 0%

#### Tunisia

Standard rate: 18% Other: 12%, 6%, 0%

#### Zambia

Standard rate: 16% Other: 0%

#### Zimbabwe

Standard rate: 15% Other: 0%



# Botswana

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 12% for most goods and services.
- Zero-rated are charged on the following supplies:
  - export of goods and services
  - petrol, diesel oil and illuminating paraffin
  - sorghum or maize for human consumption that is not cooked as a meal or prepared as a food
  - pesticides and fertilizers
  - basic food items such as brown bread, fresh vegetables and fruits (in natural state) rice (husked, milled, polished, glazed, parboiled or broken), samp (not further prepared / processed); cattle, sheep or goat milk not concentrated, condensed, evaporated, sweetened, flavored or cultured; bread flour (white, brown or whole wheat)
  - tractors used for farming business
  - goods or services for the personal or official use of the President or any dependent of the President's family
  - going concern.
- Supplies of residential accommodation, education services, financial services and prescription drugs are charged as 'exempt supplies'.

### *Are there any confirmed or anticipated changes to these rates?*

No.

### *What is the principal indirect tax?*

In Botswana, Value Added Tax (VAT) is the principal indirect tax and it is charged and collected based on the invoices generated and issued by the business.

### *Is there a registration limit for the tax?*

Yes. The registration limit is based on the taxable annual turnover. Once the threshold is met, a person is required to register. The threshold will be P1,000,000 per annum. A person can also register voluntarily if their taxable turnover is above P500,000.

### *Does the same registration limit apply to non-established businesses?*

A non-established business need not register for VAT.

### *Does a non-established person need to appoint a fiscal representative in order to register?*

No. A non-established person is a person or business not situated in Botswana hence there is no need to appoint a representative.

### *How often do returns have to be submitted?*

A registered person is required to submit VAT returns on a monthly or bi-monthly basis based on the annual turnover of the business.



|  |  |
|--|--|
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>  | Yes. There are penalties for late submission of VAT returns and interest for the late payment of VAT dues.   |
| <i>Are any other declarations required?</i>  | Yes. For goods or services entered in Botswana an 'import declaration' needs to be provided to the Commissioner General at the time of import.   |
| <i>Are penalties imposed in other circumstances?</i>   | Yes. Penalties can be imposed on false or misleading information or statements.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i>  | No. Tax can only be claimed by business registered in Botswana.  |
| <i>Deduction of VAT</i>  | <ul style="list-style-type: none"> <li>• Supply or import of good or services for entertainment purposes or provision of entertainment are not allowed for VAT deduction.</li> <li>• Supply or import of passenger vehicle with seating capacity of nine or few including double cab vehicle.</li> </ul> |
| <i>Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?</i> | There is no specific provision to tax non-resident supplying electronic/digital services to private consumers. However the recipient of import services shall be required to declare with the revenue authority import services received and pay the VAT on the value of import.                         |

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# Egypt

The Egyptian government have announced the introduction of a VAT law that will replace the existing general sales tax system. However, the implementation dates have yet to be set. Please find the current sales tax rates included below.

| Item  | Collection unit   | Tax rate |
|---|-------------------|----------|
| The Services of hotels and tourist restaurants other than the free services rendered by such bodies to the workers thereof              | Value of invoice  | 10%      |
| Services of tourist transportation companies.   | Value of invoice  | 10%      |
| Telex and Fax Services  | Value of receipt  | 10%      |
| Air conditioned means of transportation between Governorates ( buses, railway)  | Value of ticket   | 5%       |
| Sound and Light show services   | Service fees      | 10%      |
| Use of sound and Light companies utilities  | Service fees      | 10%      |
| Artistic Agent services in public and private parties   | Value of contract | 5%       |
| The services of fixed phones, local telegram to the public, government cabins... etc, other than mobile phones                          | Value of invoice  | 5%       |
| Other Communication services  | Value of invoice  |          |
| a) Communication services either national or international by mobile phones either by invoice, prepaid card or any means of collection. |                   | a) 15%   |
| b) Services of international communications, telegram, information communication and international telephone calls by fixed phones      |                   | b) 10%   |
| Services of installation of telephone connections and fittings, wire and wireless and others  | Value of receipt  | 10%      |
| Processing for a third party  | Service fees      | 10%      |
| Hiring private cars services  | Service fees      | 10%      |
| Express mail services   | Value             | 10%      |
| Services of cleanliness and private security companies  | Value             | 10%      |
| Using of highways   | Duty value        | 10%      |
| Intermediary in sale of real estate   | Value of service  | 10%      |
| Intermediary in the sale of cars  | Value             | 10%      |

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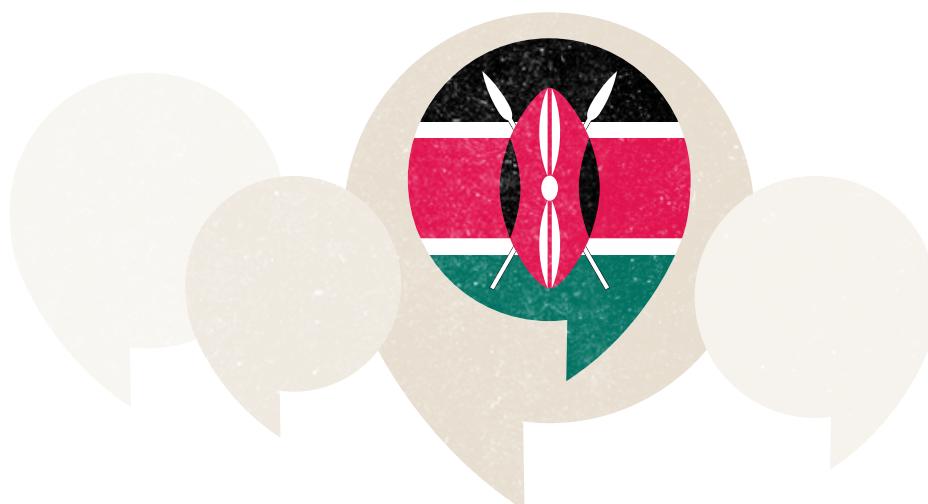




# Kenya

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 16% for most goods and services including importation of taxable goods and services.</li> <li>Zero-rated supplies include the exportation of goods and services and local supply of services to public bodies, privileged persons and institutions.</li> <li>Exempt services include banking, insurance and reinsurance, education, medical, veterinary, dental, nursing, agriculture and supply of residential premises.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No anticipation of changes in rates.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax is the principal indirect tax applied in supply of most goods and services in Kenya.   |
| <i>Is there a registration limit for the tax?</i>   | Yes. There is a minimum annual turnover amount that when an entity attains, then it becomes mandatory to register for VAT. Voluntary registration is also allowed for businesses that do not meet the set turnover minimum.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes. The limit is applicable to non-established businesses making taxable supplies in Kenya.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Yes, non-established entities appoint, in writing, a tax representative to register for VAT on their behalf.   |
| <i>How often do returns have to be submitted?</i>   | Returns are submitted monthly.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. There is a fixed penalty for late submission of VAT returns. Late payment of tax attracts interest which is compounded monthly.   |
| <i>Are any other declarations required?</i>   | Yes, total taxable sales made, total exempt sales and total zero rated sales need to be declared. For purchases, total taxable, exempt and zero rated purchases are to be declared.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Any fraudulent acts for example omission or contravention of the VAT Act is liable to a fine or imprisonment.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. To claim refunds in Kenya, one has to be registered for VAT in Kenya.  |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Kenya. VAT shall apply to:

- the taxable supplies of goods and services provided by a registered person in Kenya
- the importation of taxable good
- a supply of imported taxable services.

A VAT taxable event is to be considered at the time and place of supply for goods or service.

VAT in Kenya is taxed at a standard rate of 16%.

The Act provides for zero rating of:

- exportation of taxable goods and services
- supply of taxable good under services to an export processing zone (EPZ)
- shipstores supplied to international sea or air carrier on international voyage
- supply of coffee and tea for export to auction centers
- transportation of passengers by air carriers on international flight
- transfer of business as a going concern to a registered person
- transfer of natural water by national or county government
- supply of taxable goods and services to public bodies, privileged persons and institutions.

The VAT Act also exempts a number of goods from VAT (list of items is provided in The Act).

Exempt services include:

- financial services (operation of accounts, issuing card, ATM transactions)
- insurance and reinsurance services excluding actuarial services, services of assessors and loss adjusters and management of insurance consultancy services
- educational services
- medical, veterinary, dental and nursing services
- agriculture, animal husbandry and horticultural services
- burial and cremation services
- transportation of passengers excluding international air transport and hired or chartered services
- sale, lease, hire or letting of land or residential premises.

## Place of supply

A supply of service is made in Kenya if the place of business of the supplier is in Kenya.

A supply is also considered to be made in Kenya if:

- the recipient of the supply is not a registered person but the services are physically performed in Kenya
- the supply relates to immovable property in Kenya
- the supply or transfer of: right to use, a copyright, patent or trademark.

## Time of supply

The time of supply for the purpose of VAT is the earlier of the date on which the supply is made, the date upon which a certificate is issued by a consultant, the date an invoice is issued or when payment for the supply either in part or whole is received.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Where a supply electronically or a digital service is provided in Kenya and the place of business of supplier is not in Kenya it shall be deemed to be made in Kenya if the recipient of the supply is not a registered person and the services are electronic services delivered to a person in Kenya at the time of supply. These supplies of imported taxable services made to a resident are taxable to VAT at a rate of 16%.

## Treatment of imported services (reverse charge VAT)

When a registered person receives services from a non-resident supplier, then the registered person is deemed to have supplied himself a taxable service.

This registered person should account for VAT on these imported services.



### Is there a registration limit for the tax?

Yes, The VAT regime in Kenya provides that any person making or expecting to make annual taxable supplies of KShs 5,000,000 or more is required to register for VAT.

Penalties and interest on VAT may arise in the event of a person making the minimum taxable sales but fails to register for VAT.

### Does the same registration limit apply to non-established businesses?

Yes, a non-resident person making taxable sales in Kenya amounting to the set minimum is expected to appoint, in writing, an agent who will register and account for VAT on their behalf.

When a non-established person making the minimum taxable supplies fails to appoint a tax representative within the first month after making the supplies, then the commissioner will appoint a tax representative on their behalf.

### How often do returns have to be submitted?

All taxpayers are required to file a VAT return electronically every month. The due date for VAT return filing is 20th of the following month.

### Are penalties imposed for the late submission of returns/payment of tax?

Yes, a fixed penalty of KShs 10,000 is applicable on each instance of late filing of the VAT return. Late payment of VAT attracts 2% interest compounded monthly.

### Are any other declarations required?

Yes, upon submitting a VAT return, a person is required to include details of all the supplies made, standard VAT rate supplies, exempt supplies and zero rated supplies during that VAT period.

The person also includes details of the standard rate, exempt and zero rated purchases made during the same period.

### Are penalties imposed in other circumstances?

Yes, a fine not exceeding KShs 1,000,000 or imprisonment for a term not exceeding three years or both is applicable if convicted of the below offences:

- falsification of VAT documents
- failure to do the requirements under The Act
- interfering with other persons or processes so as to contravene the VAT Act
- breach of duties as specified in the VAT Act
- failure to prevent or report offences committed under the VAT Act to the relevant authorities.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in the Kenya?

No. An overseas business can only claim VAT in Kenya if they have a tax representative who registered and accounts for VAT on their behalf.

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# Mauritius

## Indirect tax snapshot

|  |  |
|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>Standard rate of 15%.</li> <li>Some goods and services as specified in the VAT Act are zero rated or exempt.</li> </ul>                       |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT).   |
| <i>Is there a registration limit for the tax?</i>  | VAT registration is compulsory for businesses whose annual turnover of taxable supplies exceed or is likely to exceed six million Mauritian rupees (MUR).                            |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No, non-established businesses are not required to register in Mauritius.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Not Applicable.  |
| <i>How often do returns have to be submitted?</i>  | Most registered persons are required to submit quarterly VAT returns. Returns are required to be submitted on a monthly basis if annual turnover of taxable supplies exceed MUR 10m. |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late penalty and interest can be imposed.   |
| <i>Are any other declarations required?</i>  | No.  |
| <i>Are penalties imposed in other circumstances?</i>   | Yes. Penalties can be imposed for a range of errors or omissions.  |



*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

No.

#### *Deduction of VAT*

No input tax shall be allowed as a credit for the following (non-exhaustive lists):

- good or services used to make an exempt supply
- motor cars and other motor vehicles for the transport of not more than 9 persons.
- accommodation or lodging, catering services, receptions, entertainment, and the rental or lease of motor cars and other vehicles
- maintenance or repairs of motor cars and other vehicles
- good and services used by banks holding a banking license under the Banking Act 2004 for providing services other than to non-resident and corporations holding a Global Business Licence under the Financial services Development Act.

## What is the principal indirect tax?

Value Added Tax (VAT) is the principal indirect tax in Mauritius.

VAT is a tax on consumer expenditure and not a tax on gains or profits. It is charged on most business transactions and imports. VAT is ultimately borne by the final consumer. The person that is selling the products or services will be responsible for charging, collecting and paying the respective VAT to the tax authority at each stage of the process.

Once a person is registered for VAT, they charge VAT on all taxable supplies made to customers, except where the customer is an exempt body as defined in the legislation. This VAT is then payable to the Mauritius Revenue Authority (MRA) as output VAT. The VAT registered person can claim VAT paid as input VAT. The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority; the MRA. A tax refund can be claimed, where the input tax exceeds the output tax.

A transaction is within the scope of VAT Act if the following conditions are met:

- in the case of goods, supply is the transfer of consideration of the right to dispose of the goods as the owner; or in the case of services, the performance of services for a consideration
- supply should be made in Mauritius:
  - a) in the case of goods, supply is treated as made in Mauritius when the goods are moved from one place in Mauritius to another place in Mauritius
  - b) in the case of services – the services are performed or utilised in Mauritius.
- supply is made by a taxable person. A taxable person is a person or entity who is registered for VAT in Mauritius, or has a liability to become registered
- supply is made in the course or furtherance of any business carried on by that person or entity.

There are two rates of VAT that are applied to goods and services in Mauritius; the standard rate (15%) and the zero rate. In addition, some goods and services are exempted from tax.

Businesses that make exempt supplies are unable to claim all the input tax that they incur. On the other hand, business that makes zero-rated supplies will be entitled to claim input tax on all of its purchases and imports.

Most goods imported into Mauritius are subject to VAT. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax under certain conditions such as: tax was paid in error, goods have been damaged or lost during the voyage and goods have become defective or obsolete.

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied on goods that are imported into the country. Unlike other indirect taxes, such as VAT, once duty has been paid, it cannot be recovered by the importer. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A person who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies exceeds or is likely to exceed the annual registration limit of six million MUR. A person can register on a voluntary basis even if the registration limit has not been exceeded.

As per S 15 (2) of the VAT Act, some professions require for compulsory VAT registration even if the annual turnover limit has not been reached. Examples of such professions include accountants, auditors, engineers, architect, attorney, solicitor, land surveyor, notary, opticians and project valuers.



Moreover, certain business activities require for compulsory registration even if the annual limit has not been reached. These businesses include:

- banking by a company holding a Banking Licence in respect of its banking transactions other than with non-residents and corporations holding a Global Business Licence
- management services by a holder of a management licence in respect of services supplied other than those supplied to corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence
- services in respect of credit cards issued by companies other than banks to merchants accepting such credit cards as payment for the supply of goods or services.

### Does the same registration limit apply to non-established businesses?

Where a person who does not belong in Mauritius makes a taxable supply of services which are performed or utilised in Mauritius, to a registered person, then all the same consequences shall follow under the VAT Act as if the registered person had himself supplied the services in Mauritius and that supply were a taxable supply (reverse charge mechanism).

The normal VAT registration limit does not apply to businesses that are not established in Mauritius.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

This is not applicable in Mauritius.

### Does a non-established business need to appoint a fiscal representative in order to register?

There is no legal requirement to appoint a fiscal representative in Mauritius.

### How often do returns have to be submitted?

Under normal circumstance, VAT returns need to be submitted on a quarterly basis. A quarterly VAT return normally covers a period of 3 months and end on the last day of the calendar month; 31 March, 30 June, 30 September and 31 December. A VAT return along with its payment will have to be submitted within 20 days from the end of the quarter to which it relates. In case, a taxable person chooses to file its return electronically, as a manner approved by the tax authority, it will have 30 days from the end of the quarter to submit its return and pay the tax liability.

Where the turnover of taxable exceeds ten million MUR, the taxable person should file their return electronically and on a monthly basis. The deadline to file the return and payment of the tax liability will be 30 days from end of the month that it has been required to submit the return.

### Are penalties imposed for the late submission of returns/payment of tax?

#### Penalty for non-submission of return by due date

A penalty of 2,000 MUR for every month or part of the month until the return for that taxable period is submitted, provided that the total penalty payable shall not exceed 20,000 MUR.

#### Penalty and interest for late payment of tax

Interest of 1% per month or part of the month during the period that the tax remains unpaid and a penalty at 5% on the amount of the tax.

### Are any other declarations required?

No.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

1. Any taxable person who does not apply for compulsory registration shall be liable to pay to the tax authority, a penalty of 5,000 MUR for every month or part of the month from the taxable period in respect of which he is liable to be registered to the month immediately preceding the month in which the application for registration is submitted, provided that the total penalty payable shall not exceed 50,000 MUR.
2. Any registered person who is required to submit his return and make any payment of tax due electronically but fails to join the electronic system, after written notice being given to him by the tax authority, shall be liable to pay a penalty of 5,000 MUR, for every month or part of the month from the taxable period specified in the notice, up to the taxable period immediately preceding the taxable period in respect of which he submits his return, and to make any payment of tax due electronically, provided that the total penalty payable shall not exceed 50,000 MUR. The person will have a period of seven days from the written notice to justify his failure to join the electronic system.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Mauritius?

No.

What information must a VAT invoice show?

A VAT invoice must show:

- the words 'VAT INVOICE' in a prominent place
- name, business address, VAT registration number and business registration number of the supplier
- serial number and date of issue of the invoice
- the quantity and description of the goods or the description of the services
- the value of the supply, indicating whether the value is subject to VAT or not
- where the value of the supply is subject to VAT: the value of the supply and the amount of VAT chargeable and the rate applied
- name, business address, business registration number and the VAT registration number of the purchaser if it is a registered person.

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# Morocco

## Indirect tax snapshot

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|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• A standard rate of 20% for most goods and services.</li> <li>• A reduced rate of 14%, with the right to credit input VAT, applies to specific items such as butter (with the exclusion of the homemade fabric), electrical energy, etc.<br/>The 14% rate applies, without the right to credit input VAT, to services rendered by brokers, commission agents and agents of insurance companies.</li> <li>• A reduced rate of 10% applies to specific items such as banking and credit services, leasing and transactions relating to securities traded on the stock exchange.</li> <li>• A reduced rate of 7% applies to specific items such as the sale and the delivery of water, electricity, pharmaceutical products, school supplies, refined sugar, etc.</li> <li>• A zero rate applies to goods supplied and services rendered for export by the taxpayer.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | These are the rates applicable for now. However, each year, the government publishes a financial law which log sometimes some changes to the VAT rates.  |
| <i>What is the principal indirect tax?</i>   | The Value Added Tax (VAT) is the principal indirect tax in the Morocco.<br>It is a tax on consumer expenditure and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>  | Not applicable.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | There is no registration limit for businesses that are not established in Morocco.<br>Individuals and legal entities with no permanent establishment in Morocco, but which engage in taxable transactions there, are subject to VAT in the same manner as residents.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | All non-residents must register, with the Minister of Finance, an accredited representative domiciled in Morocco who will be responsible for the taxpayer's compliance with the VAT regulations.<br>Finance Law 2014 introduced an optional reverse charge mechanism. Under this regime, in case no accredited VAT representative was appointed, the Moroccan resident client becomes the legal taxpayer.  |
| <i>How often do returns have to be submitted?</i>  | Businesses with an annual turnover above MAD 1 million are required to submit VAT returns on a monthly basis. Otherwise, the returns can be submitted covering three month accounting periods.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>  | Yes. Additional declarations have to be submitted in some cases (ie statement of proportional deduction, etc.)   |



*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

VAT only applies to transactions which are deemed to have been carried on in Morocco where:

- in the case of a sale of goods, delivery is accomplished in Morocco
- in the case of all other activities, the services provided, the item leased or the rights transferred are used in Morocco.

*Deduction of VAT*

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 non-deductible expenses for corporate tax purposes (for example, goods acquired for private use by an entrepreneur).

Finance Law 2016 specified that input VAT on expenses paid in cash is deductible up to MAD 10,000 per day and per supplier, within a monthly limit of MAD 100,000 per supplier.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Morocco. VAT is levied on transactions carried out in Morocco by persons who, either habitually or occasionally, purchase goods for resale or engage in an activity of an industrial, commercial, artisan or professional nature, as well as in importation transactions.

VAT is a non-cumulative tax levied at each stage of the production and distribution cycle. Thus, suppliers of goods and services must add VAT to their net prices. Where the purchaser is also liable for VAT, input VAT may be offset against output VAT. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply.

For the moment, four VAT rates are applied in Morocco (one standard and three reduced rate). The Moroccan government's goal is to set only two rates: a standard rate (20 %) and a reduced rate (10%). A zero rate applies to goods supplied and services rendered for export by the taxpayer.

## Is there a registration limit for the tax?

There is no registration limit for the tax. Are subject to VAT:

- the legal entities who habitually or occasionally, whether as part of their main business or as an ancillary activity, manufacture, extract or process goods or change their form or handle them (packaging, putting into containers, shipment, storage or display), irrespective of whether these operations involve the use of other materials or the goods are sold under the producer's name or trademark
- the persons who take part in any stage of the above-mentioned activities, either by providing a manufacturer with all or part of the materials or raw materials necessary for the production of goods or with patents, designs, plans, processes, formulas or trademarks to which they have the rights.

## Does the same registration limit apply to non-established businesses?

Individuals and legal entities with no permanent establishment in Morocco, but which engage in taxable transactions there, are subject to VAT in the same manner as residents. VAT rules require the submission of monthly declarations of turnover.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is no specific legislation to tax non-resident supplies of electronically supplied/digital services.

According to the principle of territoriality, the private consumers resident in Morocco should be liable to VAT.

## Does a non-established business need to appoint a fiscal representative in order to register?

All non-residents must register, with the Minister of Finance, an accredited representative domiciled in Morocco who will be responsible for the taxpayer's compliance with the VAT regulations. In the event of non-payment,

VAT and penalties will become due by the Moroccan representative of the non-resident taxpayer.

Finance Law 2014 introduced an optional reverse charge mechanism. Under this regime, in case no accredited VAT representative was appointed, the Moroccan resident client becomes the legal taxpayer.



## How often do returns have to be submitted?

The filing of VAT returns may be on a monthly or quarterly cycle based on certain criteria.

Businesses with an annual turnover above MAD 1 million are required to submit VAT returns on a monthly basis. Otherwise, the returns can be submitted covering three month accounting periods.

Taxpayers under the internet filing and 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.

As of 1 January 2016, internet filing and payment system is mandatory for taxpayers generating turnover of more than MAD 10 million, taxes excluded. The Finance Law 2016 provides that the e-filing and the e-payment will be implemented for all taxpayers irrespective of the level of their revenues as from 2017.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

## Are any other declarations required?

Besides the VAT return, taxpayers must file to the tax administration a detailed statement of deductions with the reference of bills, the exact description of the goods services or works, their value the amount of tax on the invoice or memory and the mode of payment and references.

Furthermore, taxpayers performing taxable transactions and transactions outside the scope of the VAT or exempt transaction are required to deposit in local tax which they depend a statement of pro rata.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records or provide information (including additional declarations). Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Morocco?

VAT only applies to transactions which are deemed to have been carried on in Morocco where:

- in the case of a sale of goods, delivery is accomplished in Morocco
- in the case of all other activities, the services provided, the item leased or the rights transferred are used in Morocco.

## What information must a VAT invoice show?

A VAT invoice must show for example:

- an invoice date and number which is unique and sequential
- the seller's name, address and VAT registration number
- the customer's name and address
- the quantity of goods or the extent of the services
- the total amount of VAT charged and the references and mode of payment relating to the invoice

Where a VAT invoice includes zero-rated or exempt goods or services, it must show clearly that there is no VAT payable on those goods or services.

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# Mozambique

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- The standard rate is 17% for most goods and services in the national territory and also on the import of goods. However, it is important to note:
  - for goods or services subject to a fixed price regime (including fuel), there are effective rates which are differentiated by applying the general tax rate to fractions of the respective price
  - the zero rate regime applies to a limited number of exemptions with exportation activities
  - a percentage of 5% applies on sales undertaken by taxpayers in the 'simplified scheme'. These taxpayers do not have the right to deduct input VAT.
- The following domestic transactions are an indicative example of those exempt from VAT:
  - the supply of certain goods and provision of services expressly indicated in the VAT Code:
    - the supply of goods and services in the area of Health
    - the supply of goods and services related to social assistance and activities undertaken by public or non-profit bodies, whose objectives are of a social, cultural or artistic nature
    - the supply of goods and services for the collective interest of members of non-profit bodies. The purposes and objectives of these bodies will be of a social, political, associative (labour and trade), religious, philanthropic, recreational, sporting, cultural or civic nature. The members pay a fixed fee established by the statutes
    - the supply of goods and services in the area of Education
    - the supply of goods and services in the agricultural, forestry, livestock and fishing industries, as expressly indicated.
  - banking and financial transactions
  - leasing of immovable property for dwelling purposes or in rural areas, leasing of property, and for trade, manufacturing and office premises
  - insurance and reinsurance transactions as well as related services performed by insurance brokers and other insurance agents
  - transactions subject to Sisa even if exempted from the same
  - supplies pertaining exclusively to an exempt activity or supplies which did not give rise to a right of deduction. In addition supplies of goods, where on their acquisition the tax did not become deductible.
- In relation to the activities of importation, exportation, and international transportation, the following, amongst others, are zero-rated:
  - the final importation of goods of that would qualify for an objective exemption, or would benefit from the exemption of custom duties
  - the importation of goods in transit and the temporary importation or drawback of goods that are exempt from custom import duties
  - transmission of goods sent or transported with a foreign destination by the seller or by a third party on his behalf, and other similar operations



- provision of services that are directly related with the transit, exportation or importation of goods exempted from tax because they were declared to be under the temporary regime, drawback or in transit.
- Exempted when the turnover is less than 750,000 Meticaís (approximately \$17,000)
- Special rate (simplify regime) of 3% for most goods and services when turnover is between 750,000 to 2,500,000 Meticaís annually

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in Mozambique. It is a tax on consumer expenditure, and is collected on business transactions and imports.

*Is there a registration limit for the tax?*

No.

*Does the same registration limit apply to non-established businesses?*

No.

*Does a non-established person need to appoint a fiscal representative in order to register?*

No.

*How often do returns have to be submitted?*

Monthly.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.

*Are any other declarations required?*

No.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

No.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Mozambique.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Mozambique VAT if the following conditions are met:

- it is a supply of goods or services. Although the term ‘supply’ is not defined in the legislation, it has a broad interpretation

- it takes place in Mozambique
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Mozambique, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are three rates of VAT that are applied to goods and services in Mozambique; the standard rate, the special regime rate and the zero rate. In addition, some goods and services are exempt from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a ‘real’ cost.

Most goods imported into Mozambique are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied in Mozambique at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside



Mozambique up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

### Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT irrespective of the limit.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities is very different.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

### Does the same registration limit apply to non-established businesses?

Not applicable.

### Is there any specific legislation to tax non-resident suppliers of electronically supplied/digital services to private consumers resident in your country?

None.

### Does a non-established business need to appoint a fiscal representative in order to register?

No this is not necessary.

### How often do returns have to be submitted?

VAT returns normally cover an accounting period of one month, ending on the last day of a calendar month, except for special regime where the return is done every quarter ending on the last day of the quarter month. This applies to an annual turnover of between 750,000 to 2,500,000 Meticaís.

All VAT returns have to be submitted within 30 days of the end of the relevant accounting period, together with any tax due. As all returns and payments have to be submitted manually.

### Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

### Are any other declarations required?

None.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Criminal proceedings may be brought in the case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Mozambique?

No.

### What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the total amount of VAT charged expressed in Meticaís.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

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# South Africa

## Indirect tax snapshot

### *What are the current rate(s) of VAT?*

- Standard rate of 14% for all goods and services, unless the transaction is specifically zero-rated or exempt.
- Zero-rated goods and services which includes but not limited to certain basic foodstuffs, fuel levy goods, farming goods, exports, certain services to non-residents, services physically performed outside South Africa, etc.
- Exempt goods and services, which includes, but not limited to financial services, donated goods or services sold by non-profit bodies, residential accommodation in a dwelling, passenger transport in South Africa by road or rail, educational services provided by recognised educational institutions and childcare services provided at crèches and after-school care centres.

### *Are there any confirmed or anticipated changes to these rates?*

Yes. There has been a huge debate in the country that came about as a result of the Davis Tax Committee's suggestion to increase the standard rate in order to make up the fiscal deficit. This was only a recommendation by the committee and it is not clear if the Government will decide to increase the rate.

### *What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in the South Africa. It is a tax on consumer expenditure and is collected on business transactions and imports.

### *Is there a registration limit for the tax?*

Yes. Businesses are obliged to register for VAT when the total value of the taxable supply of goods and services exceeds, or will in terms of a contractual obligation in writing exceed, R1 million within any 12 month period. Suppliers of e-commerce services are liable to register if the total value of its taxable supplies exceed R50,000. Voluntary registration is generally allowed where the total value of taxable supplies will exceed R50,000, but is less than R1 million for any 12 month period.

### *Does the same registration limit apply to non-established businesses?*

Yes, currently the same registration limit applies to all businesses.

### *Does a non-established person need to appoint a fiscal representative in order to register?*

Yes. Non-resident (established) person is required to appoint a fiscal (VAT) representative who is a natural person and resident of South Africa. It is also a requirement to have a bank account with one of the major registered banks in South Africa.

### *How often do returns have to be submitted?*

- Two-monthly tax period – standard tax period generally allocated for VAT registration where turnover is less than R30 million in any 12-month consecutive period.
- Monthly tax period – Where turnover exceeds or is likely to exceed R30 million in any 12-month consecutive period.
- Four-monthly tax period – For small business with turnover less than R1.5 million in any 12-month consecutive period.
- Six-monthly tax period – For farming businesses with turnover that is less than R1.5 million in any 12-month consecutive period.
- Twelve-monthly tax period – For inter-group letting or administration companies or trust funds.



|   |  |
|---|--|
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT payment, is submitted late a 10% administrative penalty is imposed in addition to interest calculated at the prescribed interest rate applicable at the time.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors, omissions or incorrect declarations. Understatement penalties can be as high as 200%.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Generally no. VAT can only be claimed back to the extent that goods are exported from South Africa, the VAT incurred can, based on certain requirements, be claimed back from the VAT Refund Administrator at the designated border posts. |

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in South Africa.

The generally accepted essential characteristics of a VAT-type tax are as follows:

- the tax applies generally to transactions related to goods and services
- it is proportional to the price charged for the goods and services
- it is charged at each stage of the production and distribution process where there is a supply between parties
- the taxable person (vendor) may deduct the tax paid during the preceding stages as input credit against output VAT collected from customers. The burden of the tax is ultimately on the final consumer.

VAT is only charged on taxable supplies made by a vendor.

Taxable supplies include supplies for which VAT is charged at either the standard rate or zero rate, but does not include:

- salaries and wages
- hobbies or any private recreational pursuits (not conducted in the form of a business)
- occasional private sale of personal or domestic items
- exempt supplies.

The mechanics of the VAT system are based on a subtractive or credit input method, which allows the vendor to deduct the tax incurred on enterprise inputs (input tax) from the tax collected on the supplies made by the enterprise (output tax). There are, however, some expenses upon which input tax is specifically denied, such as the acquisition of motor cars and entertainment related expenses.

The vendor reports to the South African Revenue Service (SARS) at the end of every tax period on a VAT 201 return, where the input tax incurred for the tax period is offset against the output tax collected for the tax period and the balance is paid to the SARS, normally by no later than the 25th day after the end of the tax period concerned. However, vendor

registered on SARS' e-filing system may submit and pay their VAT liability up to the last business day of the month (excluding public holidays, Saturdays and Sundays). A person who is registered, or who is obliged to register is referred to as a 'vendor'.

A person must have an enterprise to be liable to register as a VAT vendor in South Africa.

An enterprise is inter alia defined as:

- any enterprise or activity
- which is carried on continuously or regularly
- by any person
- in, or partly in, South Africa
- in the course or furtherance of which goods or services are supplied
- to any other person for a consideration (payment for the supply)
- whether or not for profit.

VAT at the standard rate of 14% is only charged on taxable supplies made by a vendor, unless it is zero rated, (i.e. 0% VAT is levied), or it is exempt. Taxable supplies include supplies where VAT is charged at either the standard rate or zero rate. Vendors can claim VAT only to the extent that taxable supplies are made and where all the requirements of a tax invoice are complied with.

Businesses that only make exempt supplies are unable to register for VAT and cannot claim the VAT that they incur. It follows that the VAT paid to suppliers will be a 'real' cost.

Most goods imported into the South Africa are subject to VAT. The VAT has to be paid by the importer at the time of importation of the goods into South Africa when the goods are cleared for home consumption. Where the importation is for business purposes and the importer is registered for VAT and for customs purposes, it may be possible to reclaim the VAT on importation subject to the general input tax rules.



It is also important to note the interaction between VAT and customs duty. Customs duty is levied where goods are imported into South Africa or the Southern African Customs Union (SACU). It is levied in order to bring the cost of goods produced outside South Africa or SACU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a cost to business. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the goods on importation, including any custom duty and where the goods originate outside SACU an upliftment of 10% is added to the customs value.

### Is there a registration limit for the tax?

Every person who carries on an enterprise is liable to register for VAT when the total value of taxable supplies of goods and services exceeds, or will in terms of a contractual obligation in writing exceed, R1 million within any 12 month period. Suppliers of e-commerce services are liable to register if the total value of its taxable supplies exceed R50,000. Voluntary registration is generally allowed where the total value of taxable supplies will exceed R50,000, but is less than R1 million for any 12 month period.

For these purposes, a 'person' includes any public authority, any company, a body of persons (corporate or unincorporated), the estate of any deceased or insolvent person, any trust fund and any foreign donor funded project. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration.

Separate registration for separate enterprises, branches and divisions is allowed where separate independent systems of accounting are maintained, and the enterprises/ branches/ divisions are separately identifiable. This means that it is possible for a vendor to have more than one VAT registration number if the enterprise is carried on in separate branches or divisions.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

### Does the same registration limit apply to non-established businesses?

The normal VAT registration limit also applies to businesses that are not established in South Africa, but conduct business in South Africa.

From 1 June 2014, non-established businesses that supply e-commerce services to South African customers should register compulsory for VAT if their turnover from such supplies exceeds R50,000 during any 12-month period.

### Does a non-established business need to appoint a fiscal representative in order to register?

A non-established business is required to appoint a VAT representative, who is a natural person and resident of South Africa, to act on his behalf for VAT purposes and to assume the duties and obligations prescribed by VAT legislation. Furthermore, a non-established business must open a South African bank account.

### How often do returns have to be submitted?

- Bi-monthly tax period – this is the default tax period generally allocated for VAT registration where turnover is less than R30 million in any consecutive 12-month period.
- Monthly tax period – where turnover exceeds or is likely to exceed R30 million in any consecutive 12-month period.
- Four-monthly tax period – for small business with turnover that is less than R1.5 million in any consecutive 12-month period.
- Six-monthly tax period – for farming businesses with turnover that is less than R1.5 million in any 12-month consecutive period.
- Twelve-monthly tax period – for inter-group letting or administration companies or trust funds.

### Are penalties imposed for the late submission of returns/payment of tax?

Late payments of VAT attract an administrative penalty of 10% of the outstanding tax. An understatement penalty ranging from 5-200% depending on the behavioural levels may also be imposed. Interest is also charged at the prescribed rate (currently 9.5% per annum) on any late payments.

### Are any other declarations required?

Where goods are imported, but not entered through Customs Controlled Areas (CCAs), for example electronic goods, end users are required to pay VAT on a reverse-charge mechanism and to complete and submit a special return. Vendors that will be entitled to claim input VAT on goods or services imported for application in course of carrying on their enterprise are exempt from the reverse-charge declarations.

### Are penalties imposed in other circumstances?

Yes. Over and above the administrative 10 % penalties, understatement penalties of between 5%-200% can be imposed where businesses do not comply with the VAT rules.

### Administrative penalties

An administrative 10% late payment penalty is levied where vendor pay their VAT liability after the due date.

### Understatement penalties

SARS may also impose these penalties, having regard to nature and seriousness of the non-compliance and/or the period of non-compliance and/or any repeat of the non-compliance. The understatement penalty is normally imposed (but not limited to) when SARS makes adjustments to vendors VAT declarations as a result of an audit or investigation.

The understatement penalty percentage table is as follows:

| Behaviour                                      | Standard case | If obstructive, or if it is a 'repeat case' | Voluntary disclosure after notification of audit | Voluntary disclosure before notification of audit |
|--|---------------|---|--|---|
| 'Substantial understatement'                   | 10%           | 20%   | 5%   | 0%  |
| Reasonable care not taken in completing return | 25%           | 50%   | 15%  | 0%  |
| No reasonable grounds for 'tax position' taken | 50%           | 75%   | 25%  | 0%  |
| Gross negligence                               | 100%          | 125%  | 50%  | 5%  |
| Intentional tax evasion                        | 150%          | 200%  | 75%  | 10%   |

Criminal proceedings may be brought in the case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in South Africa?

The default position is that foreigners cannot claim VAT that they incur on goods and services that are purchased in South Africa.

An exception exists where goods are purchased in South Africa and subsequently removed from South Africa by the foreigner. The VAT incurred can, based on certain requirements, be claimed back from the VAT Refund Administrator at the designated border posts.

### What information must a tax invoice show?

A tax invoice must contain the following information:

#### Consideration of R5,000 or more (full tax invoice)

- The words 'Tax invoice' in a prominent place
- Name, address and VAT registration number of the supplier
- Name, address and VAT registration number of the recipient
- Serial number and date of issue
- Full description of the goods and /or services
- Price and VAT (according to any of the three approved methods).

#### Consideration less than R5,000 (abridged tax invoice)

- The words 'Tax invoice' in a prominent place
- Name, address and VAT registration number of the supplier
- Serial number and date of issue
- A description of the goods and /or services
- Quantity or volume of goods or services supplied
- Price and VAT (according to any of the three approved methods):
  - Method 1 – All individual amounts reflected  
Price (excl. VAT) R500  
VAT charged R 70  
Total including VAT R570
  - Method 2 – Total consideration only and the VAT rate charged  
The total consideration R570  
VAT included @ 14%
  - Method 3 – Total consideration and the VAT charged  
The total consideration R570  
VAT included R 70

Where a tax invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

Tax invoices relating to standard rated transactions must be issued in South African currency (ZAR). With regards to zero rated transaction, tax invoices may be issued in foreign currency.

The document retention period is five years. The information should be retained as prescribed by SARS. Authorisation must be obtained from SARS where a vendor wants to retain the documentation in electronic or any other format and elsewhere than in South Africa.

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# Tunisia

## Indirect tax snapshot

|  |   |
|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>Standard rate of 18% for most goods and services.</li> </ul> <p>Reduced rates are applicable for some activities:</p> <ul style="list-style-type: none"> <li>6% applicable for example to activities carried out by doctors, analytical laboratories, articles for pharmaceutical products etc.</li> <li>12% applicable for example to the transport of goods excluding agricultural and fish products, services rendered to hotels, services rendered by lawyers, tax counsels and other experts etc.</li> </ul> <p>Supplies of certain goods and services are exempt from VAT (school education, aircraft transport services, maritime transport) also all exportations of goods and services.</p> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Tunisia. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. Before the beginning of the business in Tunisia, the register for the TVA is required.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Yes.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Yes, if not done automatically his partner or client in Tunisia will be considered as its representative.   |
| <i>How often do returns have to be submitted?</i>  | Returns are submitted on a monthly basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.   |
| <i>Are any other declarations required?</i>  | No.   |



*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

The general rule is that VAT on supplies is deductible except for some categories (for example: tourism cars purchased, electricity, gasoline for automobiles).

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Tunisia

In Tunisia, a value added tax (VAT) applies to all industrial production activities, crafts, and services; however, operations concerning certain products and services are exempt from VAT including areas of agribusiness, international air and sea transportation, etc.

The following, among others, are necessarily subject to VAT:

- imports
- industrial production, including crafts, but excluding agricultural and fishery products
- services
- wholesale, excluding food products.

It is important to note that exportations outside Tunisia are exempt from VAT.

There are three rates of VAT that are applied to goods and services in the Tunisia; the standard rate (18%), the reduced rates (12% and 6%), and the zero rate. In addition, some goods and services are exempt from the tax.

## Is there a registration limit for the tax?

A person or company before beginning a business in Tunisia must register for VAT.

For these purposes, a person includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

No but non-established businesses that carry out taxable transactions in Tunisia should designated a temporary representative which will proceed with VAT reversal instead of them. In general these non-established businesses are represented by client companies or operators who have transactions with them.

In general a system of withholding tax for VAT is applicable for all taxable transactions in Tunisia done by non-established businesses. The VAT is withheld by the Tunisian client or operator and reversed for tax treasury under the name of the non-established businesses.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

## Does a non-established business need to appoint a fiscal representative in order to register?

Yes if not done automatically his partner or client in Tunisia will be considered as its representative.

## How often do returns have to be submitted?

VAT is paid on the basis of a monthly frequency when we submit the monthly tax declaration, so at the latest the 28th of the next month.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date. The rate of a penalty is 1% of the VAT to be paid for each month or part of month.



Are any other declarations required?

No.

Are penalties imposed in other circumstances?

No.

Can the VAT incurred by overseas businesses be claimed if they are not registered in Tunisia?

No.

What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in sterling.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

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# Zambia

## Indirect tax snapshot

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|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 16% for most goods and services.</li> <li>Zero-rated goods and services include most food and health.</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Zambia. It is a tax on consumer expenditure collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>   | <p>Yes. It relates to the annual turnover of taxable transactions in Zambia, and once the limit has (or will be) reached it is necessary to register.</p> <p>A supplier may also register voluntarily upon satisfying certain condition even if turnover is below the threshold.</p> |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Non established businesses will need to register as soon as they become aware that their taxable supplies will exceed the annual turnover threshold for VAT purposes.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In certain circumstances, a non-established person may be directed by the UK tax authority to appoint a fiscal representative.   |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit VAT returns every month. Returns can also be submitted on a quarterly basis upon application to the Commissioner General.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. A penalty can be imposed if a VAT return, or the corresponding payment, is submitted late.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions, whether wilfully made or not.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | <p>Not applicable – only registered businesses can recover VAT.</p> <p>However if the overseas business makes a supply to a registered business in Zambia, VAT may be recoverable if they appoint a local agent for VAT purposes.</p>  |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Zambia.

It is a tax on consumption applied during the production and distribution process to most goods and services. It is also applied to goods and certain services entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Zambian VAT if the following conditions are met:

- it is a taxable supply of goods or services. The term ‘supply’ is defined as ‘the sale or disposal of goods, or the rendering of services’
  - it takes place in Zambia
  - it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Zambia, or has a liability to become registered
  - it is made in the course or furtherance of any business carried on by that person or entity.

There are two rates of VAT that are applied to goods and services in Zambia; the standard rate, and the zero rate. In addition, some goods and services are exempt from tax.

Businesses that make wholly exempt supplies are not entitled to register for VAT, whereas a business making both exempt and taxable supplies may reclaim input tax on a partial basis, only to the extent that the input tax relates to taxable supplies.

Most goods imported into Zambia from outside are subject to VAT, whether or not the importer is registered for VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied where goods are imported into the country. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A ‘person’ who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Zambia exceeds the annual registration limit, or is expected to exceed the limit in the near future.

A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a ‘person’ includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

Two or more corporate bodies can be registered together as a VAT group if:

- they are under common control and they satisfy certain conditions
- the Commissioner General has consented.

The Commissioner General may, for the protection of revenue, exclude any member from the group at any time.

The main advantage of VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses who are not established in Zambia.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Not specified in current legislation.



## Does a non-established business need to appoint a fiscal representative in order to register?

Not required to register under current legislation.

## How often do returns have to be submitted?

VAT returns normally cover an accounting period of one month, ending on the last day of a calendar month. Businesses can request a specific accounting cycle to coincide with its financial or management reporting (quarterly or six monthly).

All VAT returns have to be submitted within 21 days of the end of the relevant accounting period, together with any tax due. All returns and payments have to be submitted electronically, except for returns with less than ten transactions which may be submitted manually by the 5th day of the end of the relevant accounting period.

Non-standard periods may apply, subject to permission or direction by the Commissioner General:

- if the tax payer's turnover does not exceed the threshold (three monthly period may apply)
- in other qualifying instances, one six monthly period and either six additional monthly returns or two additional three monthly tax periods.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date. Penalties are automatically computed.

For the late submission of a return and late payment of liability, the penalty fee is charged for each day the return is late. Interest is chargeable for each month or part of a month that a payment is overdue at the prescribed interest rate.

## Are any other declarations required?

No other declarations are required.

## Are penalties imposed in other circumstances?

Yes, penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes. Criminal proceedings may be brought in the case of false returns, documents and fraudulent evasion (up to three years imprisonment).

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Vietnam?

Not applicable. VAT may not be claimable if a business is not registered in Zambia.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the words 'tax invoice' in a prominent place
- the supplier's name and address and Taxpayer Identification Number (TPIN)
- the name or business name and address of the recipient (purchaser)
- date of issue of invoice
- a description of the goods or services supplied
- the selling price, excluding VAT and any discount
- the quantity or volume of the goods or services supplied to the customer
- the total amount of VAT charged
- the selling price including VAT
- the total charge on the invoice inclusive of VAT, any discount and the rate of VAT

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

VAT invoices can be issued, received and stored in electronic format or manually.

It is mandatory that manual invoices issued be taken from a serially numbered pre-printed invoice book.

**Computer generated tax invoices**

Suppliers with computerised accounting systems may apply to the Commissioner General for approval to issue computer generated tax invoices. Eligible accounting packages must have the following features:

- printed invoices bearing all the mandatory features of a tax invoice
- automatic and consecutive document numbering with inbuilt safeguards against reallocation and resetting of numbers
- transactions once posted and a tax invoice printed become read only
- periodic transaction reports showing invoice details.

Tax invoices must be retained for a minimum period of six years.

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# Zimbabwe

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 15% for most goods and services.</li> <li>Zero-rated goods and services including most basic food stuffs.</li> </ul>                                    |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | Not at this time.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Zimbabwe. It is a tax on consumer expenditure, and is collected on goods and services consumed in Zimbabwe. It is also charged on imports into Zimbabwe. |
| <i>Is there a registration limit for the tax?</i>   | Yes. It relates to the annual turnover of taxable transactions, and once the limit has (or will be) reached it is necessary to register. The current registration threshold is US\$60,000.                      |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes. All businesses operating in Zimbabwe are required to reach that threshold to qualify for tax registration.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Whether the business is an established business or not, a representative or a public officer is required when a company applies for VAT registration.   |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit VAT returns covering two month accounting periods. Returns can also be submitted on a monthly basis for large corporates.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed. Presently the penalty for late submission of a return is \$30 per day delayed.                                  |
| <i>Are any other declarations required?</i>   | Yes. Additional declarations have to be submitted in respect of all expenses on which a VAT input claim is being made.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No, only VAT that has been incurred in Zimbabwe is claimable in Zimbabwe.   |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Zimbabwe.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, i.e. the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Zimbabwean VAT if the following conditions are met:

- it is a supply of goods or services. The term 'supply' is defined in the legislation, and includes all forms of supply irrespective of where the supply is effected, (even including things that happen by law, eg expropriation) and any derivative of supply is construed accordingly
- it takes place in Zimbabwe
- it is made by a registered operator. For these purposes, a registered operator is a person or an entity that is registered for VAT in Zimbabwe, or has a liability to become registered under the VAT act
- it is made in the course or furtherance of any business carried on by that person or entity.

There are two rates of VAT that are applied to goods and services in Zimbabwe; the standard rate and the zero rate. In addition, some goods and services are exempted from VAT.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

### VAT on imports

Most goods imported into Zimbabwe are subject to VAT at the standard rate. The tax is paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it is possible to reclaim the input tax using the bill of entry as the supporting document.

### Time of supply

The time of supply for goods imported into Zimbabwe shall be the date on which the goods are deemed to have been imported in terms of the customs and excise legislation. Where the goods are entered for home consumption in terms of the customs and excise act, they are deemed to have been imported on the date on which they are so entered. In the case of goods that are imported and are entered into a bonded warehouse; no VAT is chargeable until they are released for home consumption.

### Value of supply of imported goods

The value of supply for goods imported into Zimbabwe is the value for duty purposes. The value for duty purposes will include insurance charges and transport charges.

### VAT on imported services

VAT is also charged on imported services. An imported service is a supply of services by a non-resident to a resident of Zimbabwe to the extent that such services are used for making non-taxable supplies.

The time of supply for imported services is the earlier of an invoice being issued or any payment being made for the supply of the service. The responsibility to pay VAT on imported services lies with the recipient of the imported. This must be declared and paid for within 30 days from the time of importation.

### Deemed sales

The act provides for both actual and deemed supplies of goods or services. The deeming provisions widen the range of transactions subject to VAT and clarify the fact that certain transactions are indeed taxable. Some of the deemed transactions that are deemed to be taxable supplies include sales in execution of a debt deregistration, door-to-door credit sales, subsidies by the local or public authority, sale of a going concern, receipt of an insurance indemnity and repossession of goods.



## Is there a registration limit for the tax?

A 'person' who makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Zimbabwe meets or exceeds the annual registration threshold, or is expected to exceed the limit in the near future.

However, a business can register on a voluntary basis even if the registration limit has not been exceeded under certain conditions. A penalty may be imposed by the tax authority if a business fails to register at the correct time.

In terms of the VAT act a 'person' includes:

- sole proprietor, ie an individual carrying on business in his own name or under a trade name
- a company
- a partnership or joint venture
- a deceased estate or insolvent estate
- trusts
- incorporated body of persons, eg an entity established under its own enabling act of parliament
- unincorporated body of persons, eg club, society or association with its own constitution
- local and public authorities.

## Requirements for voluntary registration

An application for voluntary registration can be disapproved by the commissioner in the following instances:

- if the person has no fixed place of abode or business
- if the person does not keep proper accounting records.
- if the person has not opened a bank account with any bank or similar institution for the purpose of his trade.

## Does the same registration limit apply to non-established businesses?

All businesses making taxable supplies in the course of furtherance of a business are eligible for VAT registration on attaining the registration limit. There is no differentiation between an established business and a non-established business.

## Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in Zimbabwe requires that every company applying for VAT registration appoints a person to represent the company on VAT and all other tax affairs.

## How often do returns have to be submitted?

The general rule is that all registered operators will account for VAT on the invoice basis, unless the commissioner, on written application by the registered operator, has directed otherwise. Returns together with the payments are submitted on the 25th of the following month after the end of the tax period.

A tax period is two calendar months for most registered operators, while for large registered operators it is a monthly tax period.

This implies that a registered operator is required to account for VAT at the earlier of:

- the time an invoice is issued
- the time any payment is received by the supplier.

Therefore a registered operator accounts for both cash and credit transactions.

## Payments basis

The act also provides for an alternative accounting basis namely the payment basis. Registered operators in this category will account for VAT only to the extent they have received payment from such sales and claim input tax to the extent of payments made on purchases and expenses. The payment basis is only limited to public authorities, local authorities and associations not for gain. These registered operators, who wish to account for VAT on the payments basis, must apply to the commissioner in writing.

## Are penalties imposed for the late submission of returns/payment of tax?

A default penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

For the first late submission or payment, the tax authority will issue a notification to the taxpayer confirming that a penalty may be imposed in the future. If another submission or payment, a fixed percentage penalty is imposed on that occasion. The percentage penalty is increased for subsequent defaults (up to a specified maximum), unless returns and the related payments are made on time.

## Are any other declarations required?

Businesses that are registered for VAT in Zimbabwe are required to submit input tax schedules to accompany each VAT return submitted. The input tax schedule must show:

- the name of supplier
- a description of goods/services supplied
- amount excluding VAT
- amount of VAT charged
- invoice number/bill of entry number in the case of a bill of entry being used
- date of supply of the goods or services.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Zimbabwe?

No, VAT can only be claimed if it has been incurred in Zimbabwe. The tax authority will not refund VAT that has been incurred in other tax jurisdiction even where the goods are eventually consumed in Zimbabwe.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the customer's name and address
- a description of goods or services supplied to the customer
- the customer's VAT number
- amount excluding VAT
- the total amount of VAT charged.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

Where a business makes retail sales, a simplified VAT invoice can be issued.

VAT invoices can be issued, received and stored in electronic format. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Indirect tax overview

## – Americas

In USA, President Barack Obama signed the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) in February 2016. TFTEA makes permanent the moratorium on Internet access taxes and multiple or discriminatory taxes on electronic commerce established by the Internet Tax Freedom Act.

Puerto Rico will implement VAT with effect 1 June 2016, replacing the current sales and use tax system.

In Brazil, the rate of PIS and COFINS on the import of goods was increased in 2015.

In New Brunswick, Canada, effective 1 July, 2016, the provincial portion of the HST rate will increase by two percentage points from 8% to 10%, raising the joint federal-provincial HST rate from 13% to 15%. New Brunswick will now have the same HST rate as Nova Scotia and a rate that is slightly higher than Quebec's combined rate of 14.975 percent.

### Americas

#### Argentina

Standard rate: 21% Other: 27%, 10.5%, 5%, 2.5%

#### Brazil

Standard rate: 17%-19%

Other: 0%-365%, 0%-5% (other multiple rates also apply)

#### Canada

Standard rate: 5% Other: 0%

#### Chile

Standard rate: 19%

#### Costa Rica

Standard rate: 13%

#### Mexico

Standard rate: 16% Other: 0%

#### Panama

Standard rate: 7% Other: 15%, 10%, 0%

#### Peru

Standard rate: 18%

#### Puerto Rico

Standard rate: 10.5% Other: 1%, 0%

#### United States

Sales tax rates vary across the country

#### Uruguay

Standard rate: 22% Other: 10%, 0%



# Argentina

## Indirect tax snapshot

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|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• Standard rate of 21% for most goods and services.</li> <li>• Reduced rate of 10.5% for some goods and services that are specifically detailed.</li> <li>• Increased rate of 27% for energy, telecommunications, water, natural gas, electric power and running water regulated by measurers and telecommunications.</li> <li>• Reduced rates of 2.5%, 5% or 10.5% for newspapers, magazines, journals and advertising spaces.</li> <li>• Some goods and services are exempted from the tax.</li> <li>• Exports of goods and services are exempted with the possibility to claim the refund of the linked input credit.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal Federal indirect tax in the Argentina. It is a tax on consumer expenditure and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | No. But depending on the annual turnover of taxable transactions in Argentina, there is a simplified regime in which the small taxpayers pay a monthly fixed quote. Once the limit has (or will be) reached it is mandatory to register as a taxpayer under the general regime, determining the tax and paying the difference between output tax invoiced to clients and input tax invoiced by suppliers.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No. There is no registration limit for businesses that are not established in Argentina and they will need to register as soon as they start to make taxable transactions. However, foreign entities working on short term assignments in Argentina do not need to comply.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Yes, a non-established person has to appoint a fiscal representative in the tax authority in order to register.  |
| <i>How often do returns have to be submitted?</i>  | In general, the VAT must be submitted on a monthly basis. Taxpayers who exclusively develop agricultural activities may submit their tax return on a monthly basis and pay annually.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return is submitted late a penalty can be imposed, and if the corresponding payment is done after the due date, the taxpayer must pay the added interest.  |



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| <i>Are any other declarations required?</i>   | Yes. Additional declarations have to be submitted in respect of information on the monthly purchases and services received as well as sales and services provided. |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions and tax fraud.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No   |

## What is the principal indirect tax?

VAT is the main type of indirect taxation in Argentina.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods and services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply ie the sale.

A registered business will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax and the withholding VAT (if it is applicable) in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund cannot be claimed and can only be used against future output tax, except the input credit which is directly linked with exports, for which it is possible to claim a refund. If the excess of VAT credit comes from withholding VAT tax, it is possible to claim the refund.

The VAT will be applied to:

- *sales of movable goods* – a sale is considered to be any transfer for consideration, among people of visible or ideal existence, which amount to transfer ownership of personal property (sale, barter, payment in kind, award for dissolution of companies, social contributions and judicial sales and auctions any other act that would lead to the same end, except expropriation). It does not include sales or transfers made as a result of corporate reorganisations tax free:
  - contracts for the construction of movable assets
  - works on property belonging to third parties
  - construction and sale of property (real estate)
  - obtaining goods of nature on behalf of a third party
  - definitive imports of movable assets
  - renderings of financial services performed abroad, the use of which is carried out in Argentina, as long as the renders are taxpayers for other taxable events. Thus they are levied on by tax, the interest from loans granted abroad, fees for technical assistance, etc. The renderers will be responsible of entering the tax.

The standard rate of this tax is 21%, there also exist special rates:

- 27% – applicable to the sale of natural gas, electric power and running water regulated by measurers and telecommunications
- 10.5% – applied to certain taxable activities related to the construction of property (houses), renderings and sales related to certain products of animal and plant origin, health insurance services, long range and mid-range public transportation, and interests and commissions for loans granted by financial entities in Argentina or abroad. In this last case, when the entity complies with international standards of banking supervision established by the regulations. This special rate also applies to the acquisition and importation of certain durable goods to be used in productive activities
- 2.5%, 5% or 10.5%, depending on the annual invoicing – applied to newspapers, magazines, journals and advertising spaces.

In addition, some goods and services are exempt from tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost, except the exports of goods and services that are exempted with the right to ask for the refund of the tax linked with the exports. The exports of services are the services provided in the country where the effective use is carried abroad.

Most goods imported into Argentina are subject to VAT. The tax will have to be paid by the importer at the time of importation. In addition the Customs collect VAT in this operation. Where the importation is for business purposes and the importer is registered for VAT, this tax is considered an input tax credit.

### Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services must register for VAT.

When the person has a small business, they can register in a simplified regime paying a monthly quote of tax which includes direct tax, indirect tax and social security tax. This regime is only for individuals, not for companies. When the amount of the operations exceeds the annual simplified regime limit, the person must register with the tax authorities in the general regime.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

### Does the same registration limit apply to non-established businesses?

Non applicable.

When a non-resident wants to do business in Argentina, it is necessary to register with the tax authorities, but when the non-resident does non-recurring activities, this registration is not done and Argentina have no withholding tax rules to avoid this omission.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

### Does a non-established business need to appoint a fiscal representative in order to register?

Yes, a non-established person has to appoint a fiscal representative in the tax authority in order to register.

### How often do returns have to be submitted?

VAT returns normally cover a monthly accounting period, ending on the last day of a calendar month.

All VAT returns have to be submitted electronically within 20 days of the end of the relevant monthly accounting period, together with any tax due.

### Are penalties imposed for the late submission of returns/payment of tax?

The tax rules establish different kinds of penalties that the tax authorities may impose on the taxpayers:

- a formal fine when the VAT returns are not submitted on time
- if the corresponding payment is done after the due date, the taxpayer must to pay interest.

### Are any other declarations required?

There are two monthly informative regimes, one for sales and another for purchases that must be filed by taxpayers who meet certain conditions and requirements.

### Are penalties imposed in other circumstances?

Yes, the tax rules establish different kinds of penalties that the tax authorities may impose to the taxpayers:

- a fine when a taxpayer omits to declare the tax. It is graduated from 50% to 100% of the omitted tax
- a fine when the taxpayers commit a tax fraud. It is graduated from two to ten times the omitted tax. If the amount exceeds the limit established, the 'Penal Tax Regime' would be applied.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Argentina?

No.

## What information must a VAT invoice show?

A VAT invoice must show:

- the seller's name and business address
- the legal address and its registration with the Competent Authority in Corporate Law
- the seller's identification number (CUIT)
- the seller's turnover tax registration number
- the seller's VAT status (registered, exempt, simplified regime)
- an invoice number which is unique and sequential
- beginning activities date
- the printer's name and identification number
- first and last number of the invoices printed
- printing authorisation code and due date of these invoices
- a letter which identifies the different kind of invoices, depending on the fiscal status of the seller and purchaser
- original or duplicate
- the invoice date
- the customer's name and address
- the customer's Identification number (CUIT)
- the customer's VAT status (registered, exempt, simplified regime)
- the quantity and description of the goods or services supplied to the customer
- unit prices and total, excluding the VAT
- if the seller invoices in foreign exchange, the invoice will include the exchange rate used
- the rate of any cash discount
- the total amount payable, excluding VAT
- the rate and the total amount of VAT charged
- the rate and the total amount of collections if applicable
- the total amount of the invoice.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

VAT invoices can be issued, received and stored in an electronic format. The tax authorities established the obligation for taxpayers who met specific conditions, but it is possible for other taxpayers to use this regime after requiring authorisation. Electronic invoices must contain the same information as paper invoices. To ensure the authenticity of origin, the integrity of content and legibility of the invoices, these invoices must contain an electronic authorisation code (CAE) provided by the tax authorities.

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# Brazil

## Indirect tax snapshot

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| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• ICMS – 17% to 19% (supplies in same state), or 4%, 7% or 12% (supplies between states)</li> <li>• IPI – 0% to 365% (based on tariff classification)</li> <li>• ISS – 0% to 5%</li> <li>• PIS – 0.65% (cumulative system), or 1.65% (non-cumulative)</li> <li>• COFINS – 3% (cumulative system), or 7.6% (non-cumulative)</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | <p>Indirect taxes in Brazil are levied at a federal, state and municipal level. The principal indirect taxes levied are:</p> <p><b>Federal</b></p> <ul style="list-style-type: none"> <li>• IPI (Federal Excise Tax)</li> <li>• COFINS / PIS (Social Contribution)</li> </ul> <p><b>State</b></p> <ul style="list-style-type: none"> <li>• ICMS (State Value Added Tax)</li> </ul> <p><b>Municipal</b></p> <ul style="list-style-type: none"> <li>• ISS (Municipal Service Tax)</li> </ul> |
| <i>Is there a registration limit for the tax?</i>  | No. Registration generally due upon commencement of taxable activity.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Only businesses that are established in Brazil may register for ICMS, IPI, ISS, PIS and COFINS.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | N/A  |
| <i>How often do returns have to be submitted?</i>  | <ul style="list-style-type: none"> <li>• IPI returns are generally due on a monthly basis, with an annual return also submitted.</li> <li>• ICMS returns are generally due on a monthly basis</li> <li>• ISS returns are generally due on a monthly basis (but frequency differs between municipalities)</li> <li>• PIS and COFINS returns are due on a monthly basis</li> </ul>   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. Penalties can be imposed for errors and omissions in relation to ICMS, IPI, PIS, COFINS and ISS.  |



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| <i>Are any other declarations required?</i>   | Sistema Público de Escrituração Digital (SPED) including the Nota Fiscal Eletrônica (NF-e).  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No, there is no mechanism to refund any form of indirect tax incurred by businesses that are neither established nor registered in Brazil. |

## What is the principal indirect tax?

Indirect taxes in Brazil are levied at a federal, state and municipal level. The principal indirect taxes levied are:

### Federal

#### IPI (Federal Excise Tax)

IPI is a federal tax on transactions involving manufactured goods. It must be paid either when manufactured products leave the industrial establishment or when manufactured products are imported. Export revenues are exempt from IPI.

When manufactured products are sold between producers, IPI is imposed. Nevertheless, the subsequent manufacturer is entitled to book a tax credit for the tax levied on the previous operation. The credit is normally indicated in the invoice of the goods acquired.

The tax rates vary depending on the type of product manufactured or imported and are levied ad valorem based on the Table of Excise Tax Levy (TIPI). Certain exemptions exist for goods considered to be a basic necessity for the country's economy. For example, the IPI rate levied on cigarettes is 300 per cent, while the rate levied on soap is zero. It must be noted that rates can be modified at any time by an Act of the Chief of the Brazilian Executive Government. The act is effective from the moment of its publication.

#### PIS and COFINS (social contributions)

PIS and COFINS are social contributions charged on the monthly gross revenues of Brazilian companies calculated through a 'cumulative regime' and a 'non-cumulative regime':

- **Non-cumulative regime:** COFINS is charged at 7.6 per cent and PIS is charged at 1.65 per cent (therefore a combined rate of 9.25 per cent). Companies are granted a tax credit calculated on the acquisition of inputs and on certain expenses such as raw materials of goods and services. This system ensures that the tax is applied only once on the final value of each transaction. There are also different rates for specific activities determined by law. However, please note that the concept of "input" is a grey area and the Brazilian Tax Authorities have been known to challenge companies for utilizing certain credits.

- **Cumulative regime:** COFINS is charged at 3 per cent and PIS is charged at 0.65 per cent (therefore a combined rate of 3.65 per cent). Credits are not permitted which makes the taxes cumulative throughout the supply chain (financial entities are subject to a different cumulative system). Companies who elect the Estimated Profit Method are subject to the cumulative regime

PIS and COFINS are also due upon the payment, credit, delivery or remittance of the amounts related to the importation of raw materials, goods and services. In general, PIS and COFINS are not levied on export transactions.

### State

#### ICMS (State Value Added Tax)

ICMS is a type of value added state tax generally levied on imports (customs clearance), sales, transfers and other transactions involving goods, inter-municipal and inter-state transportation services and communication services (including electricity).

For imports of goods and transactions within the same State, the regular ICMS rates are from 17 per cent to 19 per cent. However, for some specific goods, the applicable rate on import operations and sales within the State may be different from the regular ones. When transactions involve two different States, the rates are 7 per cent or 12 per cent depending on the States involved. The applicable rate is 4 per cent on interstate transactions with imported goods, irrespective of the States involved, with some minor exceptions.

ICMS is also due either when a product is resold in the domestic market or when it is physically moved from a manufacturing facility.

ICMS taxpayers are entitled to a tax credit at the amount of the tax paid in the previous transaction with the same goods (inputs), provided the purchaser is an ICMS taxpayer with respect to that product. The tax credit may be offset against future ICMS payables.

## Municipal

### ISS (Municipal Services Tax)

ISS is a municipal tax on certain services listed by the federal government (in Complementary Law 116/2003). The taxable basis of ISS is the price or value of the service rendered. The rates vary from 2 per cent to 5 per cent, generally depending on the municipality where the service provider or imported is located, where the service is provided and the type of service.

Imported services are also subject to ISS taxation regardless of whether the service is performed abroad. Exported services are tax exempt, provided certain conditions are met.

ISS is a single stage tax with no right of credit for ISS previously paid. Please note that there are in excess of 5,000 municipalities in Brazil.

### Is there a registration limit for the tax?

No. Registration generally due upon commencement of taxable activity.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No, there is currently no specific legislation to tax non-resident supplies of electronically supplied services to private consumers in Brazil.

### Does a non-established business need to appoint a fiscal representative in order to register?

Only businesses that are established in Brazil may register for ICMS, IPI, ISS, PIS and COFINS. Therefore, a business will need to create a permanent establishment in Brazil in order to register for indirect taxes.

### How often do returns have to be submitted?

IPI is generally reported on a monthly basis on the Declaration for Federal Taxes and Contributions (DCTF).

ICMS returns are due on a monthly basis, consisting of the GARE (a payment receipt) and an ICMS declaration detailing all ICMS on sales and purchases during the period.

ISS returns are generally due on a monthly basis (but frequency may differ between municipalities).

PIS and COFINS taxpayers must submit the DCTF and the Declaration for PIS and COFINS Purposes (EFD-Contributions) on a monthly basis.

### Are penalties imposed for the late submission of returns/payment of tax?

Yes. Penalties can be imposed for errors and omissions in relation to ICMS, IPI, PIS, COFINS and ISS.

### Are any other declarations required?

Sistema Público de Escrituração Digital (SPED) was created to standardize and digitize the transfer of information between the tax authorities and taxpayers. Businesses must generally file, monthly or annually, all account and tax information available based on a standard uniform electronic format. SPED is composed of five major areas, including the Nota Fiscal Eletrônica (NF-e). NF-e is a digital fiscal document issued and stored electronically, allowing real-time tracking and monitoring of business transactions by the Brazilian Tax Authorities.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the indirect tax rules.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Brazil?

No, there is no mechanism to refund any form of indirect tax incurred by businesses that are neither established nor registered in Brazil.

### What information must a VAT invoice show?

Electronic invoicing in the format of the Nota Fiscal Eletrônica (NF-e) is generally mandatory for most Brazilian businesses. The business issuing the invoice generates an XML document that contains the information required for the NF-e, and this must be digitally signed with a digital certificate in order to guarantee the integrity of the data and the issuer's identity. The tax authority makes an initial evaluation of the NF-e and sends an authorisation for issue and for example, for goods to be transported.

Please note that the invoicing requirements may vary from city to city and from state to state.

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## Canada

### Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- The Goods and Services Tax (GST) applies federally at 5% – all goods and services unless defined to be exempt or zero-rated.
- A provincial component is combined with GST for the Harmonised Sales Tax (HST). The HST applies for supplies made in Newfoundland and Labrador, New Brunswick, Ontario, Nova Scotia and Prince Edward Island. The provincial component varies between 8% and 10%.
- Quebec Sales Tax (QST) currently applies at the rate of 9.975% – this applies on the consideration for the supply on all goods and services unless defined to be exempt or zero-rated.

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

GST/HST and QST are value added taxes that represent the principal indirect tax in Canada. Where applicable, some provinces also administer their own retail sales tax. Provincial retail sales taxes apply in British Columbia, Saskatchewan and Manitoba. The tax rate varies from 5% to 8%.

*Is there a registration limit for the tax?*

Yes. Any person carrying on business in Canada, including a non-resident, is required to become registered for GST/HST if their worldwide taxable sales exceed the registration threshold of \$30,000 annually.

*Does the same registration limit apply to non-established businesses?*

Yes.

*Does a non-established person need to appoint a fiscal representative in order to register?*

No. Non-residents without a permanent establishment in Canada are required to post security with the taxing authority. The security is equal to 50% of the estimated net tax of the person with a minimum of \$5,000 and a maximum of \$1,000,000.

*How often do returns have to be submitted?*

Once registered, GST/HST and QST registrants are required to file returns on a monthly, quarterly or annual basis depending on their annual sales made in Canada. Special returns may be required for financial institutions.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a GST/HST and QST return, or the corresponding payment, is submitted late a penalty can be imposed.





|   |   |
|---|---|
| <i>Are any other declarations required?</i>   | Yes. Provincial sales tax returns may be required, as well as other returns for specific tax purposes such as insurance tax.              |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | For the most part no, however in limited circumstances the tax on import may be claimed by another party but it should be reviewed first. |

## What is the principal indirect tax?

Canadian sales taxes are levied at both the federal and provincial level. The federal government administers the value added GST and HST. Federal audits and administration is undertaken by the Canada Revenue Agency, except in Quebec where Revenue Quebec administers both GST/HST and QST for most registrants except certain financial institutions. The other provinces administer their own provincial sales tax.

### GST/HST

The GST is applied for taxable supplies made in Canada at the rate of 5%, unless HST is applicable as described hereafter. GST is a value added tax that applies to the value of the consideration on most goods and services supplied or imported into Canada. Most GST registrants are entitled to recover GST/HST paid on expenses by claiming an input tax credit (ITC) or rebates in limited circumstances may be available.

The provinces of Newfoundland and Labrador, New Brunswick, Nova Scotia, Ontario and Prince Edward Island have repealed their provincial sales taxes in order to participate in the HST (combined rate of the 5% GST and a provincial component). When a supply is made within these participating provinces, HST is now applicable instead of GST. The tax base for GST and HST is the same. The HST rate is 13% in Newfoundland and Labrador, New Brunswick, and Ontario, 15% in Nova Scotia and 14% in Prince Edward Island.

Specific place of supply rules determine in which province the supply is deemed to have occurred and which rate of GST or HST will apply. These rules changed effective 1 May 2010.

Certain goods and services, such as exports, basic groceries and prescription drugs are generally zero-rated, ie taxed at 0%. GST/HST is not collected on zero-rated supplies but the supplier is entitled to claim ITCs for the GST or HST paid on related inputs.

Goods and services such as financial services, health and educational services are exempt. No GST or HST is charged on exempt supplies. However, unlike zero-rated supplies, ITCs cannot be claimed for expenses related to making exempt supplies. Certain public sector bodies such as charities may be entitled to prescribed rebates.

### QST

The Quebec Sales Tax ("QST") is also a value added tax and applies only to taxable supplies made in the province of Quebec. Generally, both GST and QST apply on the same goods and services. These taxes are stated separately on the invoice. The rules governing the application of QST have generally been harmonized with those for GST. Most QST registrants are entitled to recover QST paid on expenses by claiming an input tax refund (ITR) or in certain circumstances rebates.

QST currently applies at the rate of 9.975% on the consideration for the supply.

Although Quebec harmonised the QST with the GST effective 1 January 2013, they continue to maintain a separate tax with separate registration and reporting. Revenue Quebec also administers the GST/HST for businesses located in Quebec except for certain financial institutions.

### Large businesses

Large businesses in Ontario and Prince Edward Island with revenues in excess of \$10 million for the associated group are subject to reporting and recapture of the provincial component of the HST on certain expenses. These recapture rules effectively restrict refunds for the provincial component of the tax on meals and entertainment, motor vehicles, fuel for motor vehicles (other than diesel), telecommunications and energy not used in manufacturing. The recaptured input tax credits will be at the rate of 100% of the provincial component of the tax for the first five years and will then gradually be phased out over a three year period. If eligible, there will be full recovery of the tax on these expenses in Ontario effective 1 July 2018 and in Prince Edward Island effective 1 April 2021.

The same restrictions apply in Quebec although the compliance requirements differ. For QST purposes, large businesses with revenues in excess of \$10 million for the associated group are restricted from claiming refunds of ITRs on the same categories of expenses. Quebec has announced that they will also phase out the ITR restrictions for large businesses, effective 1 January 2021.

## Is there a registration limit for the tax?

Any person carrying on business in Canada, including a non-resident, is required to become registered for GST/HST if their worldwide taxable sales exceed the registration threshold of \$30,000 annually. A non-resident does not need to have a permanent establishment to be required to register. Once a person is carrying on business in Canada and makes a taxable supply in Canada, they are required to register provided their worldwide revenue has exceeded \$30,000. A slightly higher threshold of \$50,000 is available for public sector bodies such as charities and not-for-profit organisations.

In certain cases, voluntary registration may be permitted for residents or non-residents who are not required to become registered but wish to collect tax and recover the tax they pay.

QST registration is similar to the GST/HST registration requirements for a business being carried on in the province of Quebec; however, there are certain restrictions for non-residents of Canada voluntarily registering for QST.

Registration in the other provinces depends on a number of factors. There is no revenue threshold to apply. Most provinces look to the presence and activities being carried on in the particular province to determine registration. Manitoba and British Columbia specifically require non-residents of the province to register if taxable sales are made and there is direct marketing in their province.

## Does the same registration limit apply to non-established businesses?

Yes.

## Does a non-established business need to appoint a fiscal representative in order to register?

No. Non-residents without a permanent establishment in Canada are required to post security with the taxing authority. The security is equal to 50% of the estimated net tax of the person with a minimum of \$5,000 and a maximum of \$1,000,000.

## How often do returns have to be submitted?

Once registered, GST/HST and QST registrants are required to file returns on a monthly, quarterly or annual basis depending on their annual sales made in Canada. The GST and HST are filed on the same return. The QST is typically a separate filing in the province of Quebec but in limited cases a joint GST/HST and QST return is permitted to be filed.

Monthly returns are required if the Canadian taxable revenue of the person and the associated group is over \$6 million. Quarterly returns are required if the taxable revenue of the person and the associated group is over \$1,500,000 and is \$6 million or below. Annual filing is required where the revenue is \$1,500,000 or below. A person can elect to file more frequently if so desired and would do so if refunds are anticipated. Electronic filing may also be mandatory.

Returns are due within one month after the reporting period for monthly and quarterly filers and within three months for annual filers. Any net payable for a reporting period must be paid at the time of filing. Annual filers are required to post quarterly instalments after their first year.

If the return is in a net refund position, the refunds will be paid out to the registrant. The registrant must have the required documentary support on hand prior to making an ITC or ITR claim on the return.

Group or consolidated filing is generally not permitted federally. Each entity must file on its own. Certain exceptions may occur with an election for eligible investment plans. Returns are prepared on an accrual basis not on a cash basis. If a customer fails to pay for the taxable goods or services purchased and the supplier has remitted the respective federal and provincial sales taxes on the supply, this supplier can claim a partial bad debt relief from the respective taxing authorities. However, the debt must be written off from the supplier's books and records in order to be eligible for the relief and the relief itself does not necessarily equal the tax; the amount is prorated depending on the amount of consideration already received.

The federal government and the respective provincial governments have instituted systems of penalties in their tax legislation to discourage failure to comply with their respective sales tax system. In addition, interest is charged on amounts outstanding. These interest and penalty amounts are generally not deductible for income tax purposes.

## Are penalties imposed for the late submission of returns/payment of tax?

A penalty may be imposed by the tax authority if GST/HST and QST returns are not submitted on time, or the related tax is not paid by the due date.

## Are any other declarations required?

Certain information returns may also be required for financial institutions including pension plans.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the GST/HST and QST rules.

Penalties and interest can be applied for errors and omissions made on tax returns or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Canada?

Generally not unless the tax was paid in error; there are limited rebates and some instances where tax on import may be claimed by another party.

## What information must a VAT invoice show?

An invoice must show:

- an invoice number which is unique and sequential
- the supplier's name or business name, or the name of an intermediary
- the invoice date
- total amount of invoice
- amount of applicable tax
- supplier's GST/HST and QST registration numbers
- purchaser's name or business name
- terms of payment
- a description sufficient to identify the goods or services supplied to the customer.

It is important to note that the tax authorities are very strict in regards to the supporting documentation for ITC and ITR purposes.

## Other taxes

### Provincial sales taxes

Most other provinces impose their own retail sales tax (RST). Unlike the GST/HST and the QST, the RST is not a value added tax and is not recoverable. The provincial RST is generally applicable on most tangible personal property and services for the repair, maintenance, installation, and other services related to such taxable property. Real property, royalties and intangible personal property are not taxable for RST purposes with the exception of software. Most software and related services, other than specifically defined custom software, are subject to the provincial RST.

RST is administered in each of the provinces of Manitoba, Saskatchewan, and British Columbia. The tax application and registration requirements can vary by province. Generally, the RST rates vary from 5% to 8%. Special rates can apply to the sale of alcohol, insurance and admissions.

All RST provinces have unconditional exemptions for certain supplies such as basic groceries, health supplies and books. Conditional exemptions also apply to goods purchased for the purpose of resale and in some provinces, certain machinery and equipment used directly in manufacturing goods for resale. However, exemption certificates or other exempting documentation must be obtained by the vendor to support the exemption and registration may be required to provide such documentation.

Provincial RST returns are generally filed on a monthly basis and in Manitoba and Saskatchewan are due 20 days following the end of the reporting month. Some relief is available to file on a less frequent basis but only for very small or seasonal filers. Returns in British Columbia are due to be filed on the last day of the month following the reporting month and must be filed electronically where annual sales exceed \$1.5 million.

The province of Alberta does not have an RST and years ago the provinces of Newfoundland and Labrador, Nova Scotia and New Brunswick eliminated their RST and harmonised their tax with the federal GST to create the federal HST. Up until the end of June 2010, the province of Ontario also had a retail sales tax. British Columbia was an HST participating province from 1 July 2010 but reverted back to an RST system 1 April 2013. Prince Edward Island eliminated its provincial sales tax and became a participation HST province also effective on 1 April 2013.

Furthermore, the following additional taxes may apply:

- specific taxes
- a provincial sales tax continues to apply on insurance premiums including but not limited to the provinces of Ontario and Quebec
- excise taxes
- environmental levies.

For further information on indirect tax in Canada (other than Québec) please contact:

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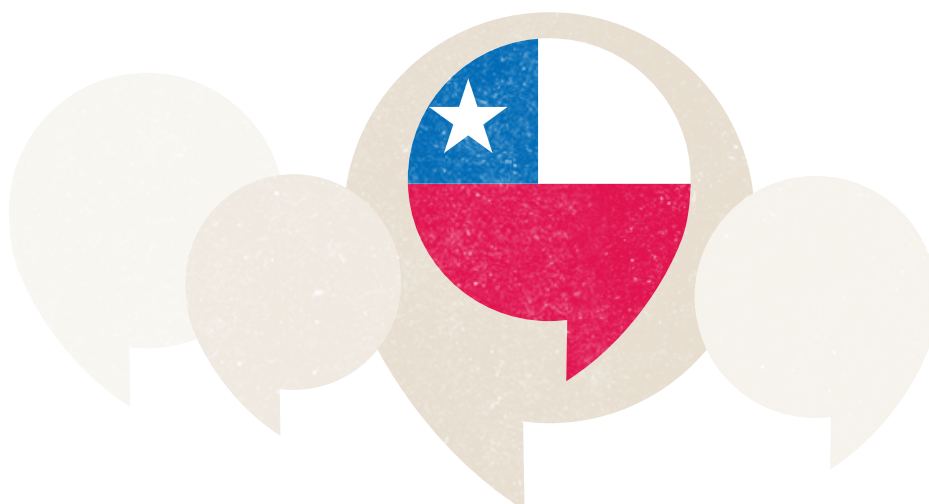
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# Chile

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | Standard flat rate of 19% for goods and services.  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Chile. VAT is charged on all recurring sales and some specific services, whether recurrent or not.  |
| <i>Is there a registration limit for the tax?</i>   | No. All taxpayers that make transactions subject to VAT must pay this tax.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Not applicable, there is no limit.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | A non-established person that has operations in Chile must appoint a fiscal representative.  |
| <i>How often do returns have to be submitted?</i>   | Taxpayers must submit a tax return on a monthly basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late then a penalty can be imposed.   |
| <i>Are any other declarations required?</i>   | Yes. Certain luxury items and beverages are subject to sales tax in addition to VAT, at rates that vary according to the type of items sold. Fuels and gas are also subject to sales tax in addition to VAT. |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No, you must be registered to claim tax refunds.   |





## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Chile. The VAT rate is a flat rate of 19%.

In general, VAT is applicable on the price charged for the following transactions:

- sales of tangible goods provided by habitual sellers performing such transactions on a recurrent basis
- services, whether habitual or not, that can be considered commercial, industrial, financial, or related to mining, construction, insurance, advertising or other commercial activities
- imports, whether habitual or not
- transactions deemed by the VAT law as 'sales' and 'services'. Examples of these transactions are:
  - the leasing of tangible goods and of real estate that includes furniture in general or equipment which fits the property for commercial or industrial use
  - regular/habitual sale of new real estate
  - royalties or lease payments for the use of patents, trademarks or similar rights
  - constructions of any kind when built totally or partially by construction companies
  - fixed assets sold before they are fully depreciated or within four years from their acquisition
  - withdrawal of tangible assets from inventory
  - interest accrued in a sale on credit.

Among the transactions not subject to VAT are:

- professional and technical assistance services
- capital contribution of tangible assets made by a DL 600 foreign investor, when some requirements are met
- sales of used vehicles, if the same requirements are met
- interest on loans and securities
- lease of real estate under some circumstances
- exports
- real estate transfer under some circumstances
- international freight, both by air and sea

The VAT paid on imports, purchases, and services received (tax credit) is deducted from the VAT due on sales and services rendered (tax debit). The vendor or the service provider must file a monthly tax return and pay a net debit the twelfth day of the subsequent month. If the taxpayer is an electronic biller, the tax return can be pay by internet until the 20th of that month.

## Is there a registration limit for the tax?

There is no registration limit for this tax.

Every 'person' or 'legal entity' that has operations in Chile, either for sales of goods or services rendered, must register at the Chilean Internal Revenues Service (IRS).

This tax also applies to the Treasury, semi-public institutions and autonomous bodies of the state administration, municipalities and enterprises belonging to them or in which these agencies have participation.

Imports are subject to the same 19%, rate whether regular or not, made by any natural or legal person.

The tax must be declared and paid monthly. Its amount corresponds to the difference between the tax debit and the tax credit. If the difference results in a remnant, there is a mechanism that allows for using it in future periods.

VAT contained in the invoices receipt can form part of the VAT credit only the month it is received, plus two additional months.

Exporters are exempt for the sales that are made abroad, having the right to recover VAT paid against the purchase of goods or use of services for the export activity.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

VAT registration also applied for businesses that are carried out in Chile by foreign persons or entities. This registration applies without limit.

## Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in Chile may direct a person to appoint a VAT representative to act on his behalf for the purpose where the person:

- is a taxable person or makes taxable supplies or acquires goods in Chile
- is not established, and does not have a 'fixed establishment' in Chile
- in the case of an individual, he does not have his 'usual place of residence in Chile'.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Payments abroad are subject to different Additional Tax rates. As they are subject to Additional Tax they are exempt of VAT.

## How often do returns have to be submitted?

VAT returns cover an accounting period of one month, ending on the last day of a calendar month.

As said, on a monthly basis, VAT taxpayers may deduct their VAT credit from their VAT debit. The excess of VAT debit should be declared and paid monthly. On the contrary, if in a given month the VAT credit exceeds the VAT debit, the remaining VAT credit balance is carried forward and cannot be refunded in cash. A refund in cash is available only for VAT credit derived from the acquisition of fixed assets where a credit balance persists for at least six months.

In general, only registered VAT taxpayers can benefit from VAT credits.

## Are penalties imposed for the late submission of returns/payment of tax?

A penalty is imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

The delay or omission in the presentation of statement that are not the immediate basis for determining tax, is punishable by a fine ranging between USD \$82 and USD \$972 approx.

The delay in paying taxes to the Treasury, subject to withholding or surcharge is punishable by a fine of 10% of the taxes owed. The fine will increase by 2% for each month or fraction of a month of delay, which cannot exceed 30% of the tax due.

If the failure is detected by the Chilean IRS the fine will be 20%, and reach a maximum of 60%.

## Are any other declarations required?

In Chile, taxpayers must also pay indirect taxes for alcoholics (ILA), fuels (IEPD), gas (GLP) and luxury goods.

These indirect taxes must be paid through the same tax return that the VAT returns. The rates of these taxes vary according to the class of item sold.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Fines and interest can be applied for errors or omissions made on tax returns, or where the tax is paid late. Penalties and interests can also be applied where the business do not maintain adequate records. Criminal proceeding may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Chile?

No, VAT cannot be reclaimed by cross borders businesses if these are not registered as having operations in Chile.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the detail of the waybill if the supply is made in a previous day
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in Chilean pesos.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT (19%)
- the total amount payable, excluding VAT.

It is possible to issue invoices in electronic format, but must have the agreement of the authority. Electronic invoices must contain the same information as paper invoices.

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# Costa Rica

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 13% for most goods and a determined and definite list of services.</li> <li>Tax-exempt products include the so-called 'basic basket' (groceries and basic articles for the home); human and veterinarian medicines; agricultural goods; educational materials; and miscellaneous articles (power consumption under 250 KW/h, etc.).</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | There is a tax bill under discussion in the Congress to reform current general sales tax to a value added tax. The tax rate for goods and some services would increase to 15%, and there would be a reduced rate for other services such as education and health. Nonetheless, it is not foreseen to be approved soon as there is much opposition.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Costa Rica. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>   | No. Every person or company that sells goods or services on a regular basis has to be registered before tax authorities.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Not applicable.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | No.  |
| <i>How often do returns have to be submitted?</i>   | Returns have to be submitted on a monthly basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No.  |





## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Costa Rica.

It is a tax applied on the sales of goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Costa Rican VAT if the following conditions are met:

- it is a sale of goods or services
- it takes place in the Costa Rican territory
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Costa Rica, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

A fixed sales tax rate of 13% is applied at all stages of the sale of merchandise or the invoicing of certain limited services. The tax is levied on:

- i) sales of merchandise within the national territory (except sales of land, buildings, exports, and certain basic necessity items, such as basic foodstuff, certain medicines and veterinary products)
- ii) the value of services performed by restaurants, bars, motels, printing companies, social and recreational clubs, and painting and repair shops, and others
- iii) imports consisting of merchandise for personal use or consumption or to satisfy commercial needs.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Services subject to tax payments (by exception) include restaurants; bars, nightclubs, and social clubs; hotels and other lodging means; motor vehicles, repair shops, and parking lots; telephone, cable, and telex; photography; customs deposits; dry cleaning; public events except sports, theaters, and movie theaters for children; advertisements; customs services; real estate services; and international moving activities.

Most goods imported into Costa Rica from outside are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

Taxpayers may only recover the sales tax by means of credit since cash reimbursements are not allowed. Credit may only be applied in the month corresponding to the tax payments on articles and services.

In the event of tax credits not being applied correctly, the taxpayer must demand reimbursement of the corresponding amounts in a specific request. No automatic compensation of credits for previous taxes is available. However, an excess amount of VAT may be transferred to the following balance sheet to compensate for VAT obligations. Costa Rican law used to allow for transfer excess tax credits to another taxpayer by means of a private negotiation.

## Is there a registration limit for the tax?

There is no a registration limit for the tax. A 'person' who either makes or intends to make taxable sales of goods or services in the course or furtherance of a business must register for VAT.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

A penalty may be imposed by the tax authority if a business fails to register at the correct time. Without prejudice to the penalties that could apply, those who do not fulfill their obligations to register are obliged, however, to pay the tax, and not entitled to a refund or credit for the tax paid on the existence of goods which remain in inventory at the date of registration as taxpayers.

## Does the same registration limit apply to non-established businesses?

There is no a registration limit for the tax.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No. There are no specific regulations for these type of situations. Goods are taxed normally during the import process. As mentioned, VAT is applied on a determined and definite list of services, which do not include those electronically supplied/digital from non-residents.

## Does a non-established business need to appoint a fiscal representative in order to register?

No. The VAT is applied for sales of goods and services within the Costa Rican territory. Sales made outside are not subject to VAT. Exportations of goods and services are not subject to VAT.

## How often do returns have to be submitted?

VAT returns have to be submitted in a monthly basis.

All VAT returns have to be submitted within 15 days of the end of the previous month (when sales were made).

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

Interests will also be applied on the late payment of tax.

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Costa Rica?

No. VAT paid in other countries cannot be claimed.

VAT that can be claimed: The tax credit is established by adding the tax actually paid by the taxpayer on purchases, imports or admissions that take place during the current month as well as the tax paid in respect of insurance premiums to protect goods, machinery and supplies directly incorporated or used in directly in the production of goods or the provision of taxable services. The tax credit is also applicable in the case of acquisition of goods that are physically incorporated in the production of goods exempt from the payment of this tax, as well as machinery and equipment primarily intended to produce the goods listed. In addition, the tax credit is awarded

on the acquisition of goods that are physically incorporated in the production of goods that are exported or not exempt from paying this tax.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the customer's name
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Mexico

## Indirect tax snapshot

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|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 16% for most goods and services, besides leasing and importing goods.</li> <li>Zero-rated goods and services include most food and medicines, books and newspapers.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Mexico. It is a tax on consumer expenditure, and is collected on the selling of goods, rendering services, leasing and imports.   |
| <i>Is there a registration limit for the tax?</i>   | No, every taxable transaction in Mexico is necessary to register.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No, individuals and legal entities which carry out VAT activities in Mexico are subject to register all of their transactions.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Yes. A non-established corporation with no permanent establishment in Mexico needs a fiscal representative in order to register.   |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit VAT on a monthly basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | Yes. An additional declaration has to be submitted on a monthly basis, known as 'DIOT', regarding operations with third parties.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. VAT refunds may not be granted to foreign corporations.  |





## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Mexico.

VAT applies to most transactions involving goods or services taking place within the Mexican territory. Such transactions include the importation of goods and services from abroad. VAT consists in a 16% tax rate applied to each transaction.

The VAT mechanism involves VAT collected, which is charged to the buyer when a sale is made; and VAT outlay, which is paid to the seller when a purchase is made. When the difference is positive (VAT collected is greater than VAT outlays) it is forwarded to the tax authorities with the monthly VAT return. When the difference is negative (VAT outlays are greater than VAT collected) a refund or tax offset claim may be filed on a monthly basis.

VAT may be an easy tax to work with, but on certain circumstances it may create substantial cash flow consequences. Additionally, proper precautions need to be taken since VAT refunds may not be granted to foreign corporations. A proper VAT planning may be required to avoid a negative impact on VAT.

The following acts or activities are subject to VAT, within Mexican territory:

- supplies of goods
- services provided
- leasing of goods
- importation of goods or services.

## Is there a registration limit for the tax?

This is not applicable in Mexico; every taxable transaction in Mexico requires a necessity to register.

## Does the same registration limit apply to non-established businesses?

Not applicable in Mexico.

## Does a non-established business need to appoint a fiscal representative in order to register?

The Mexican Federal Tax Code establishes the obligation to register in the 'Federal Taxpayer Registry' for all legal entities and for individuals who must file tax returns or issue electronic tax invoices, for the acts or activities they carry out, for the income they obtain, or in case they opened a financial account.

A non-established corporation with no permanent establishment in Mexico needs a fiscal representative in order to register.

## How often do returns have to be submitted?

Most businesses are required to submit VAT on a monthly basis.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

For non-compliance, a fine which ranges from 55% to 75% of the tax omitted.

## Are any other declarations required?

Additionally, taxpayers must submit on a monthly basis, an informative tax return of transactions with third parties, also known as 'DIOT'.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

For mathematical mistake, a fine which ranges from 20% to 25% of the tax omitted.

In case of failure to submit the DIOT, a fine which ranges from 9,430 to 18,860 Mexican pesos.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Mexico?

No. There is no refund mechanism to foreign corporations.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's registration number and tax regimen
- the invoice date
- the invoice place of expedition
- the customer registration number
- a description (including quantity/measure unit) sufficient to identify the goods or services supplied to the customer
- total amount of the good or the service
- total amount of VAT charged expressed
- mention if total payment is completed in one or more payments.

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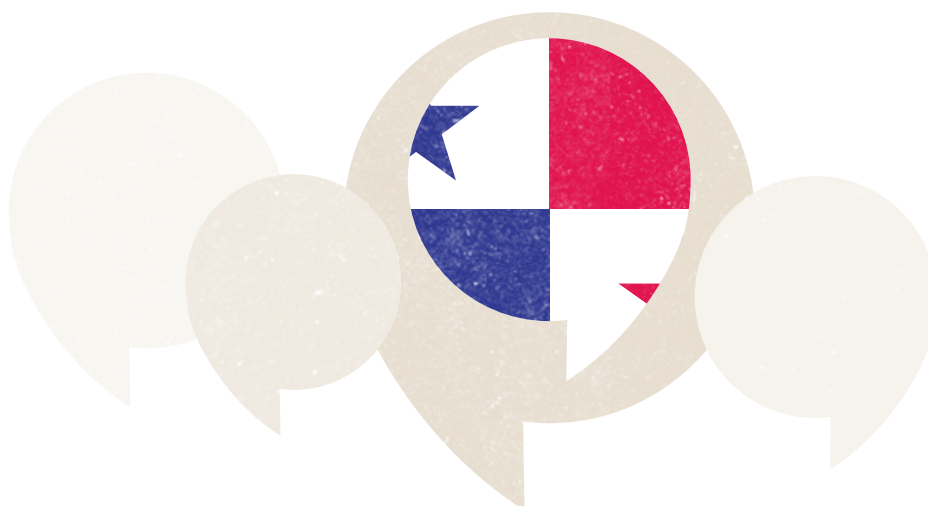
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# Panamá

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 7% for most goods and services.</li> <li>• Alcoholic beverages 10%.</li> <li>• Tobacco and derived 15%.</li> <li>• Zero-rated goods and services include most food, medicine and school's materials.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT), locally it is named (ITBMS), is the principal indirect tax in Panamá. It is a tax on consumer expenditure, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>   | No.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | No.   |
| <i>How often do returns have to be submitted?</i>   | The VAT returns have to be submitted on a monthly basis. In other words, in the first 15 of the next month.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return or payment is submitted late then there is a penalty of 10%.   |
| <i>Are any other declarations required?</i>   | Yes. Additional declarations (withholding tax/remittance abroad) have to be submitted, when a foreign entity perform services to a company in Panamá.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. A 10% surcharge from the total tax, if not submit on time.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. Panamá has a territorial tax base.  |



## What is the principal indirect tax?

Value Added Tax (VAT) in Panamá is named (ITBMS), this is the principal indirect tax.

It is a tax on consumption which is applied in the sales of goods or services. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority rests with the business that makes the sale or performs the services.

In addition, when a non-resident performs any services in Panama, the beneficiary of this service has to withhold the VAT in the payment, and then remit the VAT to the tax authority within ten days of the payment.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases or services (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, it can be applied as credit in the next month.

There are three rates of VAT that are applied in Panama. The standard rate (7%) for sales and services, for alcoholic beverages 10% and 15% for tobacco and derived.

Businesses that have exempt income are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a cost or expense.

All imported goods into Panama are subject to VAT. The tax will have to be paid by the importer at the time of importation.

Finally, if the entity is not subject to VAT it can obtain an e-certificate of non-contributor of VAT. This can be obtained from the tax authority website.

## Is there a registration limit for the tax?

For VAT there is not a registration limit. The only thing that the fiscal law considers is the total revenue on the last income tax return. If this is more than thirty six thousand dollars (US\$36,000) in the next fiscal year, the entity will be subject to collect the VAT.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses that are not established in Panamá. But if a non-established business performs services in Panamá, the entity that receives the service of the non-established has to withhold the VAT.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

## Does a non-established business need to appoint a fiscal representative in order to register?

No.

## How often do returns have to be submitted?

A VAT return has to be submitted and paid monthly. In other words, the VAT of a current month has to be submitted within the next.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty of 10% is imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

Yes. Where an entity that collects VAT and does not remit to the tax authorities other kinds of penalties can be considered. It can be from five to ten times the original amount of the tax payable.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Panamá?

No.

### What information must a VAT invoice show?

In Panamá generally all the entities have to have a fiscal invoice machine. If no apply, his invoices have to show the following:

- an invoice number which is unique and sequential
- the seller's name and address
- the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the total amount of VAT charged
- the name of the company who make the invoice (form)
- the initial and final invoice number in the sequential invoice paid
- where the invoice does not identify the VAT amount, it must state that the VAT is include in the invoice total amount.

VAT invoices can be issued, received and stored in an electronic format, but in this case the entity has to have authorisation from the tax authorities.

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# Peru

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 18% for most goods and services.</li> <li>Not reduced rate applicable.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Peru. It is a tax on consumer expenditure, and is collected on sale of goods, services performed and used from abroad, construction contracts, first sale of immovable property by the constructor and imports (including imports of intangible). |
| <i>Is there a registration limit for the tax?</i>   | Not applicable.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Not applicable.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In Peru, for VAT purposes, the taxpayer is the resident person.  |
| <i>How often do returns have to be submitted?</i>   | Monthly.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. In all situations included in the scope of the VAT, the taxpayer is the resident person.   |
| <i>Deduction of VAT</i>   | For deducting input VAT as a credit, the purchase should be deductible as expense for Income Tax purposes and such acquisition should be intended to an operation also taxed with VAT.   |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Peru.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

Our VAT legislation taxes the following transactions:

- sale of goods
- performing and use of services performed by non-residents
- construction contracts
- first sale of immovable property by the constructor
- import of goods (including intangibles).

The tax rate is 18% applicable over the price of the transaction.

Regarding sale of goods, our legislation defines 'goods' as those tangibles that may be carried from place to other, its related rights, distinctive signs, inventions, copyrights, goodwill and similar, ships and aircrafts, including documents representing these ones.

With regard to 'performing of services', our legislation defines 'services' as any performing that a person does to another and for which receives third category income for purposes of income tax, even when not subject to the latter tax; including the lease of movable and immovable property and leasing.

For deducting input VAT as a credit, the purchase should be deductible as expense for income tax purposes and such acquisition should be intended to an operation also taxed with VAT.

Some special regimes are considered by our legislation, as the benefit granted to exporters of goods or services. In such cases, the input VAT could be refunded in cash from the tax authorities.

## Is there a registration limit for the tax?

Not applicable.

## Does the same registration limit apply to non-established businesses?

Not applicable.

## Is there any specific legislation to tax non-resident suppliers of electronically supplied/digital services to private consumers resident in your country?

There is not specific or different legislation to this effect. In general, these services will be taxed with VAT taking into account the rate of 18%.

## Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

## How often do returns have to be submitted?

On a monthly basis.

## Are penalties imposed for the late submission of returns/payment of tax?

Yes. If a VAT return, is submitted late a penalty can be imposed.

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Peru?

No.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's tax registration number
- the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in sterling.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority.

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# Puerto Rico

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

### Sales and Use Tax (SUT)

- Standard rate of 11.5% split as follows:
  - 10.5% paid at the state level
  - 1% paid at the municipal level
- Starting on 1 October 2015 a special SUT of 4% was established on business to business services (B2B) and designated professional services (these services used to be exempt before 1 October 2015).
- Several exemptions are granted.

### VAT

- As of 1 April 2016 (but no later than 1 June 2016) a VAT system will be established with a standard rate of 10.5% at the state level.
- 0% rate applicable to the following:
  - sale of goods for export
  - provision of services for export
  - certain sales to manufacturers (exemption certificate and zero rate for manufacturing plants).
- The 1% at municipal level will continue to be in effect under the SUT system.
- Several exemptions are granted.

*Are there any confirmed or anticipated changes to these rates?*

No. The current 4% special tax as well as the basic 11.5% SUT will be in effect until the Puerto Rico Treasury Department (PRTD) completes the migration to a VAT system on 2016.

*What is the principal indirect tax?*

SUT is the principal indirect tax in Puerto Rico. It is a tax on sales and use of taxable personal tangible property and services to the final consumer based on sales price. Certain exclusions exist for this tax. Use tax is required to be paid on imports to be used in the operations and the retirement of inventory as gift as well as on services rendered by a non-resident. Also, importers and resellers of tangible personal property are taxed upon introduction or purchase of items and a credit mechanism is available to avoid double taxation. However, the SUT system will be changing to a VAT system in 2016.

*Is there a registration limit for the tax?*

All merchants must complete a mandatory registration by filling form AS 2914.1 with the PRTD 30 days before the beginning of operations.

*Does the same registration limit apply to non-established businesses?*

Two factors have to be analysed in order to determine if a registration is required, the first one is nexus and the second is source of income. If both factors are present the merchant is required to complete the registration with the PRTD.





|   |  |
|---|--|
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Merchants can complete the registration documents internally or appoint a representative to complete the process. Merchants should include all the localities where the offices, warehouses, branches, etc. are located in the registration form.  |
| <i>How often do returns have to be submitted?</i>   | Merchants are required to submit SUT returns on a monthly basis. The due date of the imports monthly returns is the tenth day following the month of introduction of items. The due date for both the Basic (10.5%) and the Special (4%) SUT returns is the twentieth day of the month following the month in which the transaction occurred. The returns should be filed electronically. Service providers with a volume of business of \$50,000 or less are not classified as withholding agents; therefore they are not required to file monthly returns. |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a SUT return, or the corresponding payment, is submitted late a penalty can be assessed by the PRTD.   |
| <i>Are any other declarations required?</i>   | Yes. A Declaration of Imports for Use must be completed and filed electronically upon introduction of items to Puerto Rico.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Not applicable.  |
| <i>Deduction of VAT</i>   | Not applicable.  |

## What is the principal indirect tax?

The Sales and Use Tax (SUT) is the main type of indirect taxation in Puerto Rico. However, during 2016 Puerto Rico will be implementing a Value Added Tax (VAT) system.

The SUT is a tax on all sales of tangible personal property or taxable service, admission rights, storage, use, or consumption in Puerto Rico, unless specifically exempted or excluded. The SUT applies at the time of the sale or when the service is provided. It is also applied to goods, imported for use or consumption within Puerto Rico, and to items that will be part of inventory for resale. The taxpayer importing the products that will be used or consumed will be responsible for the payment of the use tax. It also applies to services rendered by a non-resident to a Puerto Rico merchant.

The responsibility for collecting the SUT and depositing it at the PRTD rests with the registered merchant which makes the sale or provides the service. A registered merchant who has been certified as a withholding agent by the PRTD will charge 11.5% SUT on all sales of tangible personal property or services provided. However, if the merchant that provide the services is not engage in trade or business in Puerto Rico, the person responsible for the payment of the SUT is the person that receives the service in Puerto Rico, regardless of where the service has been rendered, provided that such service is directly or indirectly related with the operations or activities carried out in Puerto Rico.

The 11.5% SUT is distributed in two portions: 10.5% for the state, and 1% for the municipality in which the merchant is operating. The merchants are required to deposit 10.5% with the PRTD and 1% with the municipality in which operations are being carried out. On the other hand, the 4% Special SUT is only deposited with the PRTD (the business to business services (B2B) or designated professional services are not subject to municipal SUT).

The service transactions between two registered merchants were not taxable under the B2B exclusion. After the approval of Act 40 of 30 June 2013 certain services will no longer fall under the B2B exclusion and will be subject to SUT, even though the transactions are between two registered merchants. Furthermore, Act 72-2015 not only increases the SUT rate to 11.5%, but also establishes a 4% Special SUT on B2B and designated professional services starting 1 October 2015. The following is the list of taxable services subject to the 11.5% SUT:

- certain bank charges
- collection services
- security services
- cleaning
- laundry
- repair and maintenance of real and personal property (not capitalised)
- telecommunications
- waste collection services
- operating leases of motor vehicles that constitute a daily lease.

The 4% Special SUT will be imposed on B2B services and the following designated professional services (DPS):

- certain legal services
- tax return specialists
- professional services regulated by their respective Examining Boards under the P.R. Department of State
- agronomists
- architects and landscape architects
- certified public accountants
- brokers, sellers and real estate companies
- professional draftspersons
- professional real estate appraisers
- geologist
- engineers and surveyors
- DPS if rendered by a non-resident person to a person located in P.R., regardless of the place where the service was rendered.

Certain exclusions from the 4% Special SUT are available for both B2B and DPS.

Besides the mandatory merchant registration certificate, the PRTD has implemented a set of additional certificates and waivers from the collection of tax and allows some taxpayers to claim credits for the tax paid on their purchases. These are:

- *Exemption certificate for manufacturing plant* – provides an exemption for manufacturers on the purchase of raw material, equipment and other materials used in the manufacturing process.
- *Eligible reseller certificate* – provides an exemption to a reseller on the purchase of taxable items for resale. As a requirement 80% of the inventory retired during the last three years were sales to exempt persons or for export.
- *Reseller and municipal exemption certificate* – provides an exemption of the municipal portion of the tax paid directly to the municipality in which business is being conducted (1%). This allows the taxpayer to claim a credit of the tax paid on purchases for resale.

There are some items that are exempt from SUT under the Puerto Rico law, among them are the following:

- unprepared food
- prescribed medicines
- articles or equipment to compensate for physical or physiological deficiencies for disabled persons
- school or university books
- back to school tax free holiday – for the purchase of school articles and uniforms
- services provided to the Puerto Rico Government or the US Government
- services rendered by persons whose annual volume of business is \$50,000 or less
- additional exemptions exist for child care centres, cooperative, hospital facilities and centres for the care of the elderly, among others.

### Is there a registration limit for the tax?

Each merchant who wants to conduct business in Puerto Rico must register with the PRTD at least 30 days before starting operations in Puerto Rico.

The failure to register exposes the merchant to a penalty of \$10,000. In addition, a penalty for the failure to register with the 'Sales and Use Tax Regulatory program' (previously known as IVU Lotto) in the amount of \$20,000 could be imposed by the PRTD.

### Does the same registration limit apply to non-established businesses?

A non-established business could also be required to register with the PRTD if it has sufficient nexus and Puerto Rico source income. The regulations issued by the Puerto Rico treasury provide seven factors to be considered in the determination of nexus:

- if the merchant has establishments or offices in Puerto Rico
- if the merchant has employees, agents, or representatives in Puerto Rico, who solicit business or carry out business transactions in the name of said retail seller
- if the merchant owns tangible personal property or real property in Puerto Rico
- if the merchant creates a nexus with Puerto Rico in any way, including, but not limited to the execution of purchase contracts in Puerto Rico, direct marketing or purchases by mail, radio, distribution of unsolicited catalogues, through computers, television, or any other electronic means, or advertisements in magazines or newspapers, or other means

- if there is an agreement or reciprocity with another jurisdiction of the United States, and said jurisdiction uses its taxing authority and its jurisdiction over the merchant in support of Puerto Rico's authority
- if the merchant accepts, expressly or implicitly, the tax levied by 'Subtitle BB' of the code
- if the merchant has a sufficient connection, or a relationship, with Puerto Rico or its residents, but not those described in the above clauses, with the purpose or objective of creating a sufficient nexus with Puerto Rico to impose on the merchant the responsibility of collecting the SUT.

Recent government legislation has expanded the definition of nexus to amplify situations in which a merchant is considered to be engaged in the sale of tangible personal property in Puerto Rico.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Yes. If services are rendered by a non-resident person to a person in Puerto Rico they shall be subject to SUT by self-imposition.

### Does a non-established business need to appoint a fiscal representative in order to register?

It is not mandatory to appoint a fiscal representative to complete the registration.

### How often do returns have to be submitted?

SUT returns have to be submitted the twentieth day of each month. The return will include the transactions that occurred in the month before the return is being submitted. All returns have to be submitted electronically.

### Are penalties imposed for the late submission of returns/payment of tax?

Various penalties and additional charges are imposed by the Puerto Rico Treasury in cases where the merchant does not submit the returns or pay the tax on time. In addition to the tax liability of the month the PRTD will impose the following additions to the tax:

- failure to pay tax – 25% up to 50% of the insufficiency, 100% for repeat offenders
- failure to file a return – the highest of 10% of the tax liability or \$100.

### Are any other declarations required?

Yes. A 'Declaration of Imports' (Form SC 2970) is required to be filed and paid in order to take possession of imported property.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the SUT rules.

The following is a list of the most common penalties assessed for non-compliance with the SUT rules:

| Issue  | Penalty   |
|--|---|
| Failure to register  | \$10,000  |
| Selling, ceding or transferring the Merchant's registration certificate          | \$5,000   |
| Providing false information on the petition for registration                     | \$5,000   |
| Failure to notify changes or amendment to the required information               | \$500   |
| Falsifying the merchant's registration certificate                               | \$10,000  |
| Failure to display the merchant's registration certificate                       | \$1,000   |
| Improper advertisement   | Range from \$1,000 to \$20,000 depending on the frequency   |
| Failure to display separately the sales and use tax or for not displaying notice | \$100   |
| Displaying a falsified merchant's registration certificate                       | \$5,000 for each violation  |
| Taking improper possession of imported tangible personal property                | \$5,000 for each violation. Once a person is authorised to move the freight, a penalty of \$10,000 (for each violation) can be imposed if they break the seal of the freight trailer out of the presence of a fiscal official of the PRTD |
| Failure to keep documents  | \$20,000 for each violation   |

Additional penalties exist in relation to the exemption certificates and credits. In addition, the failure to pay the tax will be subject to interest at an annual rate of 10% and surcharges at an annual rate of 5% if the delay is from 31 to 60 days or 10% if the delay is more than 60 days.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Puerto Rico?

Not applicable.

## What information must a SUT/VAT invoice show?

Each merchant responsible of collecting SUT, will include the tax in a separate line in the receipt, invoice or any other evidence of the sale. The segregation of the tax between the state and municipal portions is not mandatory. Therefore, the merchant could have a receipt or invoice reflecting the total cost of the items purchased and an 11.5% SUT or could have a receipt or invoice showing the total cost of the items purchased and two separate lines reflecting the state portion of the SUT and the municipal portion of the SUT.

In addition, merchants required to use the fiscal device of the SUT regulatory program, must provide a receipt issued by the fiscal terminal to their clients.

When the implementation of the VAT system occurs between April and June 2016, merchants that purchase goods or services may request from the seller or service provider a fiscal statement within 30 days after the receipt of the goods or services. The seller merchant must provide the fiscal statement within 30 days. A fiscal statement will not be required if the goods or services are exempt, subject to 0% tax, sold to a small merchant or sold at retail.

In the case of a retail sale (sale of goods or rendering of services from a merchant to a person that is not a merchant), the seller merchant must provide to the buyer a receipt, invoice, ticket or any other evidence showing the VAT separately from the price of the good or service sold.

A VAT fiscal statement should include:

- title 'Value Added Tax Fiscal Statement'
- an invoice number which is unique and sequential
- seller's name, address and registry number
- purchaser's name, address and registry number
- issuing date of fiscal statement
- serial number of the fiscal statement
- description of the goods or services rendered
- selling price of the goods sold or service rendered
- VAT amount
- total amount invoiced, including the VAT
- any other information determined by the secretary of the treasury through an official document.

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# United States

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- Rates vary between states and among localities within states. Depending on the jurisdiction, general rates can range from 0 to over 13%.
- Complete exemptions and reduced rates and apply to certain goods and services. Exemptions and reduced rates vary among different jurisdictions.
- Exemptions frequently apply to necessities such as unprepared food, and prescription medicines. Additional (higher) rates may apply to purchases of “vice” items such as alcoholic beverages.

*Are there any confirmed or anticipated changes to these rates?*

Yes. There are almost 10,000 sales and use tax jurisdictions in the U.S. With this many jurisdictions, some rates are likely scheduled to be changed in any given year.

*What is the principal indirect tax?*

Sales tax (and a complementary use tax) is the principal indirect tax in the USA. Sales tax is a tax on consumer expenditures and is collected on retail sale transactions. The use tax is a tax on the use of goods that were purchased elsewhere and were not subject to a jurisdiction's sales tax.

*Is there a registration limit for the tax?*

No, generally. Many states waive registration and collection requirements for occasional and/or isolated sales, which are extremely limited and often do not apply to business transactions. Aside from these exemptions, dealers making sales at retail are typically required to register for and collect sales and use tax.

*Does the same registration limit apply to non-established businesses?*

Yes. Sales and use tax laws, including exemptions, typically apply to all sellers doing business within a jurisdiction, regardless of where the seller is based. Collection and filing obligations in the particular state jurisdictions, however, depend on whether the non-established businesses have sufficient presence in the jurisdiction to require a sales tax collection obligation.

*Does a non-established person need to appoint a fiscal representative in order to register?*

For sales tax registration purposes the appointment of a fiscal or authorized representative is not required, although in many instances doing so can be useful as tax registrations can often be complex. A jurisdiction may also require additional registrations, such as with a Secretary of State, which often require the listing of a registered agent.

*How often do returns have to be submitted?*

The frequency of returns varies by jurisdiction. In most cases, returns are filed monthly. Some jurisdictions allow for quarterly filings for businesses with sales under certain thresholds, and some jurisdictions require periodic reconciliation filings, which may occur quarterly.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. Penalty and interest may be imposed for late filing of returns and/or late payment.



*Are any other declarations required?*

Yes. Additional documentation may be necessary for taxpayers claiming certain exemptions or exclusions. These may include exemption certificates or sale-for-resale certificates (B2B transactions).

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, collection and remittance requirements are typically imposed on all businesses whose contacts with a jurisdiction are sufficient enough to establish nexus (and a corresponding filing obligation) with that jurisdiction, regardless of whether the business properly registered as required.

## What is the principal indirect tax?

Sales tax (and a corresponding use tax) is the primary indirect tax in the United States. Sales tax is a tax on consumer expenditures and is collected on sale transactions. Most jurisdictions in the U.S. require that the seller collect sales tax on the sale of taxable goods or services and remit the tax to the appropriate jurisdiction's tax authority.

Sales tax is only imposed on retail transactions. That is, tax is only due on the purchase of a taxable good or service when the purchase is made by the end-user of that good or service. When a taxable good or service is purchased by a customer that will resell the good or service, the purchase is generally not subject to sales tax. In such cases, it is generally the seller's responsibility to collect from the purchaser documentation attesting that the purchaser is buying the goods or services in order to resell the goods or services.

It is possible for a vendor to not charge sales tax at the point of sale initially because the vendor does not have a physical presence or agents in a jurisdiction. To compensate for this possibility, jurisdictions impose a use tax that is complementary to the sales tax. The use tax is a tax on the use or consumption of goods in a jurisdiction, regardless of where the goods were purchased. The use tax is imposed on the purchaser of goods or services, not the seller. Purchases of goods or services that were subject to a jurisdiction's sales tax are exempt from the jurisdiction's use tax. Additionally, use tax is generally not due to the extent that the purchaser paid sales tax to a different jurisdiction on the transaction and that jurisdiction also had the right to tax the transaction (the use tax paid must be equal to or greater than the sales or use tax that would otherwise be due).

## Is there a registration limit for the tax?

There is no limitation on the requirement that a seller register for and collect sales tax (or a purchaser for use tax) based on the dollar amount of sales made. Many jurisdictions, however, provide exemptions for occasional and isolated sales. Under these exemptions, a seller typically is not required to register for or collect sales tax on sales that it only makes a certain number of times in a given period. For example, an individual selling his or her personal possessions or a company liquidating its assets may not be required to collect sales tax, depending on the law of the jurisdiction in which the sale takes place. These exemptions are not available in every jurisdiction, however.

## Does the same registration limit apply to non-established businesses?

Where a company is located or established has little or no bearing on whether the company is required to register for and collect sales tax. Instead, a seller is required to register for sales tax in a jurisdiction to the extent that the seller has "nexus" with the jurisdiction. That is, the company must have contacts with the jurisdiction that are substantial enough to allow the jurisdiction to impose collection responsibilities on the seller. Although these requirements vary from jurisdiction to jurisdiction, the general rule is that almost any amount of physical contact with a state is sufficient to establish nexus with the jurisdiction. A company that has property or personnel in a jurisdiction, or that sends an employee, independent contractor, or agent into a state on behalf of the company, likely has physical contact sufficient to establish sales tax nexus. Additionally, some jurisdictions will find nexus even without conventional physical presence. Certain online e-business relationships, affiliate relationships, and sales thresholds may be enough to establish nexus in some jurisdictions for sales tax purposes. Therefore, nexus, like almost all aspects of sales and use tax compliance, must be examined on a jurisdiction-by-jurisdiction basis.

### Is there any specific legislation to tax non-resident suppliers of electronically supplied/digital services to private consumers resident in your country?

Many jurisdictions impose sales and use tax on the purchase of digital goods and services, electronically downloaded software, software as a service, and similar electronically supplied offerings. Whether supplies of such offerings are subject to sales tax in a given jurisdiction depends on whether the jurisdiction imposes tax on such goods or services. The tax can be imposed on the seller or the consumer, depending on whether the seller has nexus. A seller's obligation to collect depends on whether the seller has established nexus with the jurisdiction.

### Does a non-established business need to appoint a fiscal representative in order to register?

The concept of businesses being “established” and “non-established” does not exist in the US for sales and use tax purposes. Instead, the critical consideration is whether a business has established “nexus” with a particular jurisdiction, which would require that business to register and collect sales tax. Unlike the concept of being established, nexus does not depend primarily on a business's primary location, but on whether a business has substantial contacts with a jurisdiction. If there are no minimum contacts with a jurisdiction (as defined above), then a business does not need to register.

Establishment principles aside, businesses typically do not need to appoint a third-party fiscal representative to register for sales and use tax in most jurisdictions. In some instances, a company may decide to appoint a representative, such as a certified public accountant or an attorney to assist with the registration process because registration requirements and procedures can be complex. Additionally, doing business in some jurisdictions may require registration with other agencies, such as the Secretary of State. These additional registrations may require that the company list a registered agent, which is often a third party.

### How often do returns have to be submitted?

The frequency with which returns must be filed varies by jurisdiction. For most jurisdictions, sales and use tax returns must be filed on a monthly basis. Some jurisdictions, however, allow for less frequent filings for taxpayers whose sales are under a set threshold. Other jurisdictions require reconciliation filings that must be submitted in addition to the periodic sales and use tax return filings. The filing periods for these reconciliation filings varies by jurisdiction.

### Are penalties imposed for the late submission of returns/payment of tax?

Penalties and interest are typically imposed for both late filings of returns and late payments of tax. Penalties for failure to file or pay can be as high as 50% of the tax due for the period. Many jurisdictions also impose penalties for substantial underpayments or for non-payments that are the result of fraud or wilful neglect. In some instances, the waiver of some penalties may be secured.

### Are any other declarations required?

Sales and use tax compliance has fairly strict documentation requirements in virtually all jurisdictions. As a baseline, jurisdictions generally require that businesses maintain a complete record of all transactions for several years, usually five years at a minimum. Records generally include invoices, bills of lading, gross receipts from sales, and other pertinent records.

In addition, taxpayers must retain all exemption documentation. This may include resale certificates or consumer exemption certificates. For example, if a business makes a tax-free sale to a wholesaler, the business must collect a resale certificate from the wholesaler, and the business must retain the certificate. Otherwise, the business may be held liable for the tax due on the transaction.

### Are penalties imposed in other circumstances?

In some instances, a jurisdiction may require some taxpayers to make advance estimated payments of sales and use tax prior to the date the taxpayers are required to file their returns and remit their tax payments. Late payment penalty can apply to both the tax payment and the estimated penalty. Additionally, jurisdictions often impose penalty for late payments or non-payments that are the result of fraud or wilful neglect. In these instances, the various penalties may stack.

Criminal proceedings may be brought in the case of more serious matters, and individual liability can attach to responsible company employees.

## Can the sales and use tax incurred by overseas businesses be claimed if they are not registered in the United States?

A non-resident generally can't reclaim sales tax levied.

A business need not be registered with any particular state or jurisdiction to incur sales and use tax obligations. To the extent that a company has established nexus with a jurisdiction for sales and use tax purposes, that company may be subject to the jurisdiction's taxing authority. Although nexus standards vary slightly by jurisdiction, nexus is generally established to the extent that a company has any physical presence in a particular jurisdiction. Physical presence may be an office, warehouse, owned or leased personal property, or the presence of personnel, including independent contractors or agents that travel into the state to act on behalf of the company. Additionally, some jurisdictions find nexus as a result of a taxpayer being an affiliate of an entity that has established nexus, as a result of a company entering into certain referral agreements with persons that have established nexus, or via internet marketing or advertising activity.

## What information must a sales tax invoice show?

Taxing authorities in the United States generally do not have specific sales tax invoices, but certain information should be on invoices that are issued to comport with recordkeeping requirements. Depending on the requirements of the various jurisdictions, invoices may need to show: the billing and shipping address of the purchaser, the address of the seller, the amount of the transaction, a description of the goods and/or services provided, the transaction date, any tax charged separately stated, and other pertinent information. Additional information may be required in order to utilize certain exemptions.

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# Uruguay

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- Standard rate of 22% for most goods and services within national territory, the introduction of goods into the country, and the value added over real property from works by means of administration performed by those who are not Income tax on Economic Activities (IRAE) taxpayers, at a basic rate of 22%.
- Reduced rate of 10% for some goods as the ones from the family food basket, the first sale of real estate, and certain services such as health services.
- Zero-rated for exports of goods and services and for sales of agricultural goods in some cases.

*Are there any confirmed or anticipated changes to these rates?*

Yes, it is supposed that the standard rate will be 20% in the future.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in Uruguay.

*Is there a registration limit for the tax?*

No.

*Does the same registration limit apply to non-established businesses?*

No.

*Does a non-established person need to appoint a fiscal representative in order to register?*

No, in case of those taxes.

*How often do returns have to be submitted?*

Most businesses are required to submit VAT and IMESI returns on a monthly basis.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes.

*Are any other declarations required?*

In some cases, special declarations are required (i.e. VAT in case of a vehicle acquisition in order to deduct the VAT).

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed in other circumstances.





## What is the principal indirect tax?

Value Added Tax (VAT) is the principal indirect tax in Uruguay.

VAT is levied on operations dealing with the domestic circulation of goods, the rendering of services within national territory, the introduction of goods into the country, and the value added over real property from works by means of administration performed by those who are not Income tax on Economic Activities (IRAE) taxpayers, at a basic rate of 22%.

Goods integrating the family food basket, the first sale of real estate, and certain services such as health services shall pay taxes at a 10% minimum rate.

Exportation of goods is subject to this tax at a rate of zero % in all cases. Additionally, exportation of services is subject to this tax at a rate of zero % if the services are included in a specific list (list that can be increased by a decree of the Uruguayan executive power). Following are some examples of services considered exportation:

- international freight of goods (in transit) outside Uruguay
- services for construction of airplanes and boats
- services in the free port and Uruguayan free zones, only if it is necessary to render the service in these zones
- services rendered to non-residents regarding specific sectors, (eg, TV, cinema, logistical services, etc.)
- advisory services rendered to foreign entities, involving activities developed, goods situated or rights used outside Uruguay, when the services are used economically outside Uruguay
- advertising services rendered by advertising agencies to foreign clients, if the material is used exclusively abroad.

If the service is not included in the list, the service will be taxed at a rate of 22%.

This tax operates according to the tax against tax system.

VAT credit for exportation can be recovered.

If the goods a corporation sells or the services rendered are VAT exempted, the corporation has nothing to deduct from and the VAT paid on its purchases of goods or services will become part of cost. In case of exports – VAT rate zero % – the VAT credit is still available against other taxes.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

## Is there a registration limit for the tax?

No.

## Does the same registration limit apply to non-established businesses?

Not applicable, there is no registration limit.

## Does a non-established business need to appoint a fiscal representative in order to register?

Regarding VAT, there is no obligation to appoint a fiscal representative. In almost all cases, a withholding agent is appointed.

## How often do returns have to be submitted?

The tax is calculated and paid either monthly or annually, depending on the taxpayer's volume of business. In the case of annual calculation, payments are to be made on account, based on transactions for the month.

Sworn tax returns are to be submitted monthly or annually, depending on whether the tax is calculated monthly or annually, with accumulated data for the year underway and, at year-end, the outstanding balance is calculated and paid (or a tax credit is carried over to the following year).

## Are penalties imposed for the late submission of returns/payment of tax?

Yes. In case of late submission of the tax return a penalty (not significant) is imposed. In case of late payment, a penalty of 5%, 10% or 20% is imposed over the tax not paid (depending how long), and then surcharges are also imposed. Surcharges are generated every day.

## Are any other declarations required?

In some special cases, some declarations need to be issued.

## Are penalties imposed in other circumstances?

In some cases, if the VAT is not paid with the intention to avoid and hide the taxable event before the tax authority, our law states the existence of tax fraud as a monetary penalty and as a penal crime (defraudación tributaria).

If a company incurs in formal deficiencies regarding formal requirements only if it is possible to understand that the company has the intention to commit tax fraud, our law states a judicial procedure in order to close the company for a certain period of time (six working days or more, depending the case).

Please note that according to our law, in some cases (not all of them) the penalty of ‘contravención’ could be applicable over each document which may contain a formal deficiency with a limitation of 1,000 penalties.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller’s name and address
- the seller’s tax registration number
- the invoice date
- the customer’s name and address, and sometimes the identification number in case of individuals
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged.

Additionally the details of the print house shall be included in the invoice, as well as a QR code.

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# Indirect tax overview – Asia Pacific

GST implementation in India has moved a step closer but a lack of political consensus continues to create ambiguity on a realistic implementation date. The GST Constitution Amendment Bill is currently pending with the Rajya Sabha.

Malaysia implemented GST in April 2015 with a standard rate of 6%, replacing the historic sales tax and service tax systems.

Australia and New Zealand both announced new legislation to tax non-resident supplies of digital services. New Zealand 1 October 2016, whereas Australia's new 'Netflix tax' is slated to be introduced with effect 1 July 2017.

VAT reform continues in China with the construction, real estate, finance and consumer services industries moving with the scope of VAT with effect 1 May 2016.

## Asia Pacific

### Australia

Standard rate: 10% Other: 0%

### Bangladesh

Standard rate: 15%  
Other: 7.5%, 5.5%, 5%, 4.5%, 0%

### Cambodia

Standard rate: 10% Other: 0%

### China

Standard rate: 17% Other: 0%-13%

### India

Standard rate: 1% to 15%  
India has a dual taxation structure, which results in the levy of multiple indirect taxes by the central and state government(s).

### Indonesia

Standard rate: 10% Other: 0%-4%

### Japan

Standard rate: 8%

### South Korea

Standard rate: 10% Other: 0%

### Malaysia

Standard rate: 6% Other: 0%

### New Zealand

Standard rate: 15% Other: 0%

### Pakistan

Standard rate: 17% (goods), 14-16% (services)  
Other: 0%

### Philippines

Standard rate: 12% Other: 0%

### Singapore

Standard rate: 7% Other: 0%

### Taiwan

Standard rate: 5% Other: 20/25%, 2%, 1%, 0%

### Thailand

Standard rate: 7% Other: 0%

### Vietnam

Standard rate: 10% Other: 5%, 0%



# Australia

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Taxable supply rate of 10%.</li> <li>• GST-Free supply no GST.</li> <li>• Input taxed supply no GST.</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Goods and Services Tax (GST) is a tax on final consumption. The GST is calculated at the rate of 10% of the GST-exclusive price of the goods and services provided.  |
| <i>Is there a registration limit for the tax?</i>   | Yes. It relates to the current or projected annual turnover and once the limit has (or will be) reached it is necessary to register.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes. Non-resident entities that make supplies that are connected with Australia are required to register if the registration turnover threshold is met. A non-resident enterprise is required to be registered if its GST turnover is at or above 75,000 Australian dollars (AUD). |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Not applicable.  |
| <i>How often do returns have to be submitted?</i>   | An entity must either lodge its Business Activity Statements (BASs) on a monthly or quarterly basis. Generally, most small businesses lodge their BASs on a monthly basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a GST return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. A company must be registered for GST before it is entitled to any input tax credits.   |



## What is the principal indirect tax?

GST is a tax on final consumption in Australia.

The GST is calculated at the rate of 10% of the GST-exclusive price of the goods and services provided.

Where GST does not apply because the supply is either GST-free or input taxed, a rate of 0% applies. The following table provides some examples of GST-free and input taxed supplies.

| GST-free supplies  | Input taxed supplies |
|--------------------|----------------------|
| Food               | Financial            |
| Health             | Residential          |
| Education          | School tuck-shops    |
| Exports            | School canteens      |
| Charities          |                      |
| Water and sewerage |                      |
| Precious metals    |                      |

The following table summarises the types of supplies and related GST treatment.

| Supply      | Examples   | GST treatment      | Recoverability of GST credits on related acquisitions  |
|-------------|--|--------------------|--|
| Taxable     | Consulting services to a firm in Australia                         | GST charged at 10% | Full recoverability of GST credits on creditable acquisitions  |
| GST-free    | Consulting services to a firm outside of Australia for application | No GST applied     | Full recoverability of GST credits on creditable acquisitions outside Australia  |
| Input-taxed | Supply of money lending services                                   | No GST applied     | No recoverability of GST credits on creditable acquisitions (there may be a partial recovery in certain circumstances) |

## Is there a registration limit for the tax?

An entity that is carrying on an enterprise, whose current or projected annual turnover is 75,000 AUD or more (excluding GST).

Non-profit bodies are not required to be registered unless their current or projected annual turnover is AUD 150,000 or more (excl. GST).

Taxi operators are required to be registered regardless of their annual turnover.

Voluntary registration is available for domestic and overseas companies.

## Does the same registration limit apply to non-established businesses?

Yes. Non-resident entities that make supplies that are connected with Australia are required to register if the registration turnover threshold is met. A non-resident enterprise is required to be registered if its GST turnover is at or above 75,000 AUD.

## Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

## How often do returns have to be submitted?

A Business Activity Statement (BAS) is required to be lodged by a registered entity to the Australian Taxation Office (ATO) to record its GST and other tax liabilities.

An entity must either lodge its BAS on a monthly or quarterly basis. Generally, most small businesses lodge their BASs on a quarterly basis. However, an entity must lodge its BAS monthly if its annual turnover is more than AUD 20 million or it has chosen to lodge monthly.

An entity with a monthly tax period must lodge its BAS by the 21st day of the month following the end of the tax period. In the case of entities with quarterly tax periods, the BAS must be lodged by the dates shown in the following table:

| If this day falls within the quarterly tax periods | Lodge the BAS on or before this date |
|--|--------------------------------------|
| 1 September  | The following 28 October             |
| 1 December   | The following 28 February            |
| 1 March  | The following 28 April               |
| 1 June   | The following 28 July                |

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

The Australian Government in May 2015 released proposals to amend the GST law to impose GST on offshore intangible supplies to Australian consumers with effect from 1 July 2017.

The amendments will result in supplies of digital products, such as streaming or downloading of movies, music, apps, games, e-books as well as other services such as consultancy and professional services receiving similar GST treatment whether they are supplied by a local or foreign supplier. The GST registration threshold of AUD\$75,000 will apply to these offshore suppliers.



Further proposed changes include:

- Shifting the responsibility for GST liability (in some circumstances) from the supplier to the operators of electronic distribution platforms. The Government's view is that this will minimise compliance costs as operators are generally better placed to comply. However, this will not occur if the platform operator does not control any of the key elements of the supply. These key elements are the authorising for payment or delivery of the supply, and setting of the terms and conditions.
- Allowing for entities that are making such intangible supplies that are only connected with Australia to become limited registration entities. Such entities will not be entitled to an Australian Business Number, must account for GST quarterly, will have no requirement to issue tax invoices and will not be entitled to claim input tax credits back. Further, the registration and reporting process will be simplified.

We note that, if these amendments are passed by Parliament, the end Australian consumer will be paying more for imported products which will extend beyond 'digital' media to all services.

### Are penalties imposed for the late submission of returns/payment of tax?

Taxpayers who fail to meet their tax obligations may be liable for penalties and interest charges. When the ATO finds an error or omission, they take into account the circumstances of the individual, including their compliance history, when deciding what action to take, particularly for any penalties or possible prosecution action. Relevant circumstances include the reasons for the discrepancy or failure to meet a tax obligation and how well the taxpayer has complied with their tax obligations in the past.

A penalty is an amount that is calculated using either a statutory formula or in multiples of a penalty unit.

The types of penalty which apply can be administrative, civil or criminal. Civil and criminal penalties are imposed by courts and administrative penalties are imposed without the need for court action.

Interest charges apply to unpaid amounts, such as shortfall amounts, late payments and tax debts. Interest charges apply whether or not a penalty applies. Having interest charges applied to a shortfall amount does not depend upon, or imply, dishonesty on the tax payers behalf.

### Are any other declarations required?

Not applicable.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the GST rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

### Can the GST incurred by overseas businesses be claimed if they are not registered in Australia?

No. A company must be registered for GST before it is entitled to any input tax credits.

### What information must a GST invoice show?

A GST invoice must show:

- the supplier's identity and Australian Business Number (ABN)
- the recipient's identity or the recipient's ABN – if the total price of the supply or supplies is at least \$1,000 or such higher amounts as the regulations specify, or if the document was issued by the recipient
- what is supplied, including the quantity (if applicable) and the price of what is supplied
- the extent to which each supply, to which the document relates, is a taxable supply
- the date the document is issued
- the amount of GST (if any) payable in relation to each supply to which the document relates
- if the document was issued by the recipient and GST is payable in relation to any supply – that the GST is payable by the supplier.

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# Bangladesh

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 15% for most goods and services.</li> <li>Reduced rate of 5% is applicable for procurement provider, 4.5% is applicable for information technology enabled services (ITES), 7.5% is applicable for sponsor services, 5.5% is applicable for construction.</li> <li>Zero-rate shall be imposed on any goods or services exported or deemed to have been exported from Bangladesh.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Bangladesh. VAT is imposed on goods and services at import stage, manufacturing, wholesale and retail levels.  |
| <i>Is there a registration limit for the tax?</i>   | Any business, having annual turnover not more than Taka eight million, may get exemption from obtaining registration.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. Businesses not established in Bangladesh do not require VAT registration. If any non-resident forms a branch/subsidiary/joint venture in Bangladesh for rendering the services or supply of goods, only then will they need VAT registration.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | No, as it is not necessary to obtain VAT registration for non-established business under VAT laws.  |
| <i>How often do returns have to be submitted?</i>   | VAT returns are required to be submitted monthly.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late then a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | <p>Yes. VAT registered entities are required to comply with the following provisions of VAT laws:</p> <ul style="list-style-type: none"> <li>declaration of price to impose VAT before supply of goods</li> <li>declaration of annual turnover in case of turnover tax</li> <li>declaration regarding factory place, plant, capital machinery, fittings, etc.</li> </ul>  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. This is not permitted according to VAT laws of Bangladesh.  |



## What is the principal indirect tax?

Value Added Tax (VAT) is one of the most important sources of tax revenues in Bangladesh. VAT is a tax, which is charged on the 'increase in value' of goods and services at each stage of production and circulation.

VAT is imposed on goods and services at import stage, manufacturing, wholesale and retail levels. A uniform rate of 15% is applicable for both goods and services. Exports are zero rated.

Importers, manufacturers and service providers, having minimum annual turnover Taka eight million, have to pay 15% tax on their value addition. Turnover tax at 3% is leviable on those entities whose turnover amount is not more than Taka eight million. There is also provision for supplementary duty which is applicable on luxurious, non-essential and socially undesirable goods.

VAT will be payable upon goods manufactured or produced for carrying out or for expansion of business or on goods imported, purchased, acquired or procured in any manner by a registered entity at the time of one of the following events whichever occurs first:

- when the goods are delivered or supplied
- when an invoice relating to supply of the goods is issued
- when any goods are used personally or supplied for use of any other person
- when part or full payment is received.

VAT shall be payable, when a taxable service is rendered by a registered entity, at the time of one of the following events whichever occurs first:

- when the service is rendered
- when an invoice relating to the service is issued
- when part or full payment is received
- when part or full payment is made in case of services received from outside Bangladesh.

Every registered entity must maintain and preserve a purchase accounts register, sales accounts register, invoice register, current account register and other commercial documents. The VAT authority may, on the basis of the application of a registered entity, allow it to keep the documents mentioned earlier through computer subject to certain conditions.

## Is there a registration limit for the tax?

Suppliers of taxable goods and services, importers of any goods and exporters of goods and services shall have to be registered under VAT laws. Those falling under the category of 'turnover tax' and 'cottage industry' are not required to register for the purposes of VAT. However, a producer or service provider with a turnover below Tk eight million (thereby falling under the category of 'turnover tax' and 'cottage industry') may voluntarily register for the purposes of VAT.

If any person supplies taxable goods or services, or carries out import or export trade from two or more places, they can get VAT registration for each place separately or get central registration for all the places subject to maintaining of accounts and records centrally.

The following documents shall have to be submitted along with the VAT registration application form:

- trade license
- TIN certificate (if any)
- IRC/ERC certificate (if any)
- list of all related selling centres in the case of 'central registration'
- declaration of the production or business premises, plant, machinery, fittings, finished or tradable goods, stocks, and inputs.

'Person' includes any business organisation, group of persons and association.

## Does the same registration limit apply to non-established businesses?

As per the VAT laws, business not established in Bangladesh do not require VAT registration. If any non-resident forms a branch/subsidiary/joint venture in Bangladesh for rendering services or supply of goods, only then will they have to get VAT registration.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No. There is no separate and specific legislation in the VAT laws regarding impact of VAT on non-resident supplies of electronically supplied/digital services to private consumers.

### Does a non-established business need to appoint a fiscal representative in order to register?

No, as it is not necessary to obtain VAT registration for non-established business under VAT laws.

### How often do returns have to be submitted?

Generally a VAT return is considered as a regular report for sales and services subject to VAT which is required to be submitted by the entities registered under VAT laws. In the return the amount of VAT liability will be stated.

A manufacturer, producer or trader of VAT able goods or services shall submit a VAT return for every month within 15th day of the next month.

### Are penalties imposed for the late submission of returns/payment of tax?

An entity shall be liable to a monetary penalty if it fails to submit a VAT return within a specified date. The VAT authority is empowered to realise the amount of unpaid VAT from the person who failed to deduct/ collect/deposit VAT at source along with 2% interest per month.

### Are any other declarations required?

VAT registered entities are required to comply with the following provisions of VAT laws:

- declaration of price to impose VAT before supply of goods
- declaration of annual turnover in case of turnover tax
- declaration regarding factory place, plant, capital machinery, fittings, etc.
- declaration regarding raw materials stored by the VAT registered entity
- notifying the VAT authority regarding any changes of address
- notifying the VAT authority regarding new bank account.

### Are penalties imposed in other circumstances?

A monetary penalty may be imposed if the business entity:

- fails to apply for registration under VAT laws
- fails to inform the VAT authority about any change of information related to registration
- fails to maintain information in ECR and computer
- evades or attempts to evade VAT through exclusion of purchase information in purchase accounts book (MUSHAK-16)
- evades or attempts to evade VAT through submission of forged or false documents to VAT authority
- does not keep proper records in accordance with this law; destroys, alters or mutilates the records; or makes false records
- makes a consciously false statement or declaration
- obstructs or prevents the access of a tax officer to inspect or seize the records, books or other documents in relation to VAT
- involves in a transaction of or acquires goods even though it is known that tax has been evaded thereon
- takes a credit of input-tax through forged or fake invoice
- evades or attempts to evade VAT or Supplementary Duty (SD) by any other means
- issues a challan stating therein the amount of VAT even without being a registered person.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Bangladesh?

No. This is not permitted according to VAT laws of Bangladesh.



### What information must a VAT invoice show?

In the case of rendering of service or export of service, the registered person shall prepare three copies of a challan in the form specified by VAT laws (Form Mushak-11) using two-sided carbon. The main copy will be given to the purchaser of service or receiver. The second copy will have to reach the local VAT office within five working days of the rendering of service. The third copy will be preserved in the place of rendering of service for a period of at least six years (attached with the challan register).

An electronic challan can be issued by any person/company subject to obtaining prior approval from VAT authority.

The contents of VAT invoice are as follows:

- a serial number
- seller's name and address
- seller's VAT registration number
- invoice issuing date
- destination of goods
- purchaser's name and address
- purchaser's VAT registration number
- description of goods or services
- quantity of goods
- base value of SD
- amount of SD
- base value of VAT
- amount of VAT
- total value including VAT and SD.

Electronic Cash Register (ECR) generated invoice must contain the following information:

- name, address and VAT registration number of the entity
- serial number, date and time of issuance
- description, quantity and value of goods and amount of VAT
- serial number of ECR machine.

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For further information on indirect tax in Bangladesh please contact:

**Lutful Hadee**

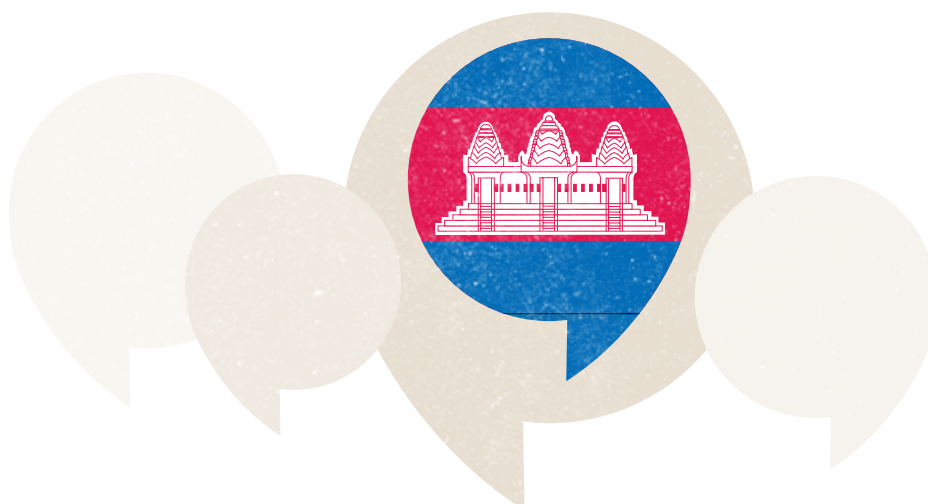
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# Cambodia

## Indirect tax snapshot

|  |  |
|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• Standard rate of 10% for most goods and services.</li> <li>• Zero-rated for exported goods and services.</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in the Cambodia. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the annual turnover of taxable transactions in the Cambodia, and once the limit has (or will be) reached, it is necessary to register.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Not applicable.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Not applicable.  |
| <i>How often do returns have to be submitted?</i>  | Returns have to be submitted on a monthly basis on the 20th of the following month.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment thereof, is submitted late or underpaid, a penalty can be imposed. Penalties comprise of a surcharge of 10%, 25% or 40% of the basic tax and interest of 2% a month.        |
| <i>Are any other declarations required?</i>  | Yes. A VAT return needs to be completed along with a report of the purchases and sales transactions for the month, accompanied by a copy of the sales invoices that the company issued and invoices received during the month. |



|   |   |
|---|---|
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. Overseas business can only claim the VAT incurred in the country if they comply with registration requirements.   |
| <i>Deduction of VAT</i>   | <p>VAT incurred in Cambodia and during the current month can be deducted, except for VAT from:</p> <ul style="list-style-type: none"> <li>• the entertainment, recreation, amusement expenses unless the taxable person carries on a business as a provider of those activities above</li> <li>• mobile phone expenses</li> <li>• the purchases or imports of automobiles unless the taxable person carries on a business of dealing in or hiring such automobiles</li> <li>• the purchase of certain petroleum products unless the taxable person carries on a business as a supplier of such petroleum products.</li> </ul> |

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Cambodia.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

### Taxable supply:

- Supply of goods or services by the taxable person in the Kingdom of Cambodia
- Appropriation of goods for his or her own use by the taxable person
- Making of a gift to or supply at a below cost of goods or services by the taxable person
- Import of goods into the territory of the Kingdom of Cambodia.

### Non-taxable supply:

- Public postal service
- Hospital, clinic, medical, and dental services and the sale of medical and dental goods incidental to the performance of such services
- The service of transportation of passengers by a wholly state owned by public transportation system

- Insurance services
- Primary financial services
- The importation of articles for personal use that are exempt from customs duties
- Non profit activities in the public interest that have been recognized by the Ministry of Economy and Finance.

### Taxable value:

The taxable value shall be determined as follows:

- The taxable value for any supply shall be the price of the goods or services the seller charged the purchaser. The taxable value includes any charges for transportation and other items payable to the seller with respect to the supply, including any specific tax on certain merchandise and services but excluding the tax on value added. Procedures for the adjustment of the taxable value at the time of supply and after the time of supply shall be determined by sub-decree.
- When the payment for a taxable supply involves any consideration other than money for the direct or indirect benefit of the seller, this consideration shall be included in the taxable value at its fair market value.
- The taxable value for any imported good shall be the customs value including insurance and freight plus any customs duties and any specific tax on certain merchandise and services. If there is no such adjusted customs value, the fair market value shall be used.
- If the taxable value of the goods or services supplied does not represent the true value, the tax administration may determine a value for such goods or services and such value shall be presumed to be the correct value until proven otherwise to the satisfaction of the tax administration.
- The taxable value of used goods that the taxable person regularly purchases from consumers for resale or sells on behalf of other persons shall be the differential between the selling price and the purchase price, or the commission from the sale of those goods.

**VAT rate:**

There are two rates of VAT that are applied to goods and services in the Cambodia:

- A standard rate of 10% on the taxable value of each taxable supply of goods and services in the Kingdom of Cambodia
- 0% on the taxable value of each taxable supply of goods exported from the Kingdom of Cambodia and of the taxable supply of a service rendered outside of the Kingdom of Cambodia.

**Time of supply:**

The time of supply shall be determined as follows:

- The tax on value added becomes due and payable at the time of supply.
- The time of supply of goods and services shall be the time by which the seller must issue the invoice or the time the seller issues the invoice if that invoice is issued before the time it must be issued by the seller.
- A value added tax invoice must be issued within seven days after the goods are shipped or services rendered or after payment if payment occurs before the goods are shipped or services rendered. If a shipment is not accompanied by an invoice, there shall be attached a shipping document which has been properly recorded in the shipping journal.
- For the supply of goods or services which are made continuously or which involve multiple payments, the time of supply shall be determined by prakas of the Ministry of Economy and Finance.
- In the case of the import of goods, the time of supply shall be the time the importer files a declaration to the customs administration according to the regulations in force.

**Location of supply:**

The location of supply shall be determined as follows:

- The supply of a good takes place in the Kingdom of Cambodia if the good is delivered in the Kingdom of Cambodia, whether that delivery takes on the characteristic of a transfer of the right to use or to dispose. In the case where the supply must include transportation, the supply takes place in the Kingdom of Cambodia if the good is in the Kingdom of Cambodia when the transportation starts.
- The supply of a service takes place in the Kingdom of Cambodia if the service is performed in the Kingdom of Cambodia, except that:
  - the supply of a service in connection with immovable property is deemed to take place where the property is located
  - the supply of a service in connection with transport is deemed to take place where the transport occurs.

- Goods are imported into the Kingdom of Cambodia if they are brought within the customs territory of the Kingdom of Cambodia.

In addition, some goods and services are exempted from the tax, especially for agriculture products, Qualified Investment Project (QIP) company, and goods and services sold to royal governments.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

All goods imported into the Cambodia are subject to VAT, except for agriculture products, goods imported for personal using that exempted from custom duty tax, goods imported by embassy or ambassador for using in embassy, NGO, . The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax.

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside Cambodia up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A 'person' or 'company' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT (real regime taxpayer) if the value of its taxable supplies in the Cambodia exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the natures of some of those activities are very different.

'Any person' conducting a business enterprise or intending to conduct a business enterprise may apply to be registered for VAT. However all corporations, importers, exporters and investment enterprises must register for VAT from the date they commence business. All other taxpayers must register for VAT if their taxable turnover in respect of goods exceeds 125 million Khmer Riels or their taxable turnover in respect of services exceeds 60 million Khmer Riels for the preceding three consecutive calendar months or is likely to exceed this level in the future three months. In addition the taxpayers with government contracts which will produce taxable turnover exceeding 30 million Khmer Riels must register for VAT. Taxable turnover is the gross income of a business excluding VAT and excluding income from non-taxable supplies as defined in Article 57 of the Law on Taxation.

The term 'any person' for purposes of VAT registration includes:

- sole proprietor
- partnership
- private company
- public company
- joint venture
- pass through
- club or association.

A business enterprise: This refers to any business of whatever nature and it includes examples such as:

- a) ordinary business, eg shops, contractors, manufacturers, wholesalers, services providers etc.
- b) trades and professions, eg architects, engineers, accountants, lawyers etc.
- c) activities of non-profit making bodies, eg societies, associations, sporting clubs etc.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

Not applicable.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is no legislation recently.

## Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

## How often do returns have to be submitted?

Every month, the company must file a VAT return form. The period covered by the return is called a tax period.

You have to fill in details of the supplies you have made and received in that period and pay the total tax you owe to the General Department of Taxation or claim a repayment or a credit if tax is owed to you.

The VAT return and VAT payment must reach 'the department of large taxpayer' by 20th day of the following month.

There are penalties for late filing of the return and for late payment or failure to pay the tax.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

The other two rates for the penalty:

- negligent: additional tax shall be 10% of the amount of the late paid tax plus 2% interest on that tax amount for each month or part of a month that it's not paid.
- seriously negligent: additional tax shall be 25% of the amount of the late paid tax plus 2% interest on that tax amount for each month or part of a month that it's not paid.



### Are any other declarations required?

Yes. The company has to prepare the report of purchases and sales that were incurred during the month and submit to tax authority with the VAT return by attaching with the invoices that company had issued and received.

### Are penalties imposed in other circumstances?

Yes, the penalty and interest shall be imposed for an underpaid or unpaid of tax amount:

- negligent: additional tax shall be 10% of the amount of the underpaid or unpaid tax plus 2% interest on that tax amount for each month or part of a month that it's not paid.
- seriously negligent: additional tax shall be 25% of the amount of the underpaid or unpaid tax plus 2% interest on that tax amount for each month or part of a month that it's not paid.
- unilateral tax assessment: additional tax shall be 40% of the amount of the underpaid or unpaid tax plus 2% interest on that tax amount for each month or part of a month that it's not paid.

Aside from the tax penalty, there is an administrative penalty shall be imposed for the obstruction of the implementation of the tax provision, the additional tax shall be:

- two million Khmer Riels (2,000,000 Khmer Riels) for a taxpayer or a withholding agent under the real regime taxpayer system or a government official,
- five hundred thousand Khmer Riels (500,000 Khmer Riels) for a taxpayer or a withholding agent under the estimated regime taxpayer system.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Cambodia?

No, they cannot claim the VAT that incurred in overseas. They can only claim the VAT that incurred in the country if they are registered locally.

### What information must a VAT invoice show?

A VAT invoice must show (for VAT registered customers):

- the seller's name and address
- the seller's VAT registration number
- the invoice date
- an invoice number which is unique and sequential
- the customer's name and address
- the customer's VAT registration number
- a description sufficient to identify the goods or services supplied to the customer
- the quantity, selling price of the goods or services
- the total taxable amount excluding VAT
- the total amount of VAT charged
- the total amount including VAT
- the date of supply of the goods or services if different from the date of issue of the invoice.

For non-VAT registered customers, the following must be shown:

- the seller's name and address
- the seller's VAT registration number
- the invoice date
- an invoice number which is unique and sequential
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the quantity, selling price of the goods or services
- the total taxable amount including VAT
- the date of supply of the goods or services if different from the date of issue of the invoice.

VAT invoices can be issued, received and stored in hard copy and need to be declared to the tax authority every month.

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# China

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Sale of goods, providing processing, repair and replacement labour activities, leasing of tangible (movable) property or import goods, VAT rate of 17%.
- Sale or import certain goods (Grains, edible plant oil, utilities, publications and certain agricultural products), VAT rate of 13%.
- Transportation services, postal services, basic telecommunication services, VAT rate of 11%.
- Modern services (R&D technical services, IT services, cultural innovation services, logistics auxiliary services, attestation and consulting services, and broadcasting, film and television services), VAT rate of 6%.
- 0% – Export (pursuant to tax circulars issued subsequent to the provisional regulations, VAT refund rates for export sale vary depending on the specific nature of goods. Thus, VAT on export sale is in effect not subject to zero rate for certain items).

Not all input VAT paid is deductible or refundable in the determination of the amount of VAT payable. For small-scale taxpayers are chargeable to VAT at the rate of 3%.

### *Are there any confirmed or anticipated changes to these rates?*

VAT reform – presently, most industries have been included in the VAT reform scope, except the following: life service industry, culture and sport industry, construction industry, real estate industry and financial industry. These industries shall be included in the VAT reform scope, as announced to be happening by 1 May 2016.

### *What is the principal indirect tax?*

Value Added Tax (VAT) and Business Tax (BT) are the two major types of indirect tax. The people's republic of China (China) is currently on the transition of reform transferring from BT to VAT. It is anticipated that VAT would take over BT to be applicable to sales of goods and most service activities in the future.  

$$\text{VAT payable} = \text{output VAT} - \text{Input VAT during the period}$$

$$\text{Output VAT} = \text{turnover} \times \text{tax rate}$$

### *Is there a registration limit for the tax?*

Yes, China has legal regime of tax registration that requires taxpayer to register its business activity in related tax authorities for tax management purpose.

### *Does the same registration limit apply to non-established businesses?*

No, generally only organisations legally established within China's territory will be required to register in competent tax authority, non-resident enterprises are not required to declare its tax status.

### *Does a non-established person need to appoint a fiscal representative in order to register?*

No.

### *How often do returns have to be submitted?*

Most businesses are required to submit VAT returns on monthly basis in practice.



|   |   |
|---|---|
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty may be imposed.<br>Taxpayers that have not complied with tax filing rules such as delay of submission of tax returns may receive a fine of RMB2000 Yuan to RMB10000 Yuan, while a delay of tax payment may be subject to a tax overdue charge at the rate of 0.05% per day. |
| <i>Are any other declarations required?</i>   | Yes, special tax declarations will be required if taxpayer operate in non-registered area within China.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes, penalties range from 50% to 500% may be imposed where a taxpayer is identified as with deliberate intension of tax evasion.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Not applicable.   |
| <i>Deduction of VAT</i>   | In principle, in addition to taxable items apply to VAT rate of 0%, any purchase of goods and/or receiving services that would not and/or could not be applied to taxable items on which would generate Output VAT (eg VAT exemption), therein the input VAT cannot be claimed for deduction.   |

## What is the principal indirect tax?

The indirect tax consists of VAT, consumption tax and BT. VAT and BT are the two major types of indirect tax in China. China is currently on the transition of reform transferring from BT to VAT. Prior to the reform, generally BT was applicable to most service activities and VAT to sales of goods. It is anticipated that VAT would take over BT to be applicable to sales of goods and most service activities in the future. Consumption tax is levied on individuals or entities that manufacture, subcontract or import into mainland China chargeable items as specified in the 'PRC Provisional Regulations for Consumption Tax'. Those chargeable items include tobacco, alcohol, cosmetics, precious jewelleries and precious jade and stones, firecrackers, processed oil, automobile tyres, motorcycles, motor vehicles, golf and golf facilities, luxurious watches, yachts, disposable wooden chopsticks and wooden floor boards. Consumption tax rates shall be computed on the basis of the good's value, volume or the combination of the value and volume (compound tax). Export sale is exempt from consumption tax.

As a principle point of view, VAT is a type of tax on newly generated value (ie added value) in multiple segments of commodity production, commodity circulation and labour services or the one imposed on added value of commodity. Organisations and individuals engaging in sale of goods or providing processing, repair and replacement labour activities and labour services, and, import of goods, etc. within the territory of the People's Republic of China shall be taxpayer of VAT and hence, subject to VAT pursuant to relevant regulations.

The VAT payable shall be computed on indirect basis (ie VAT deduction basis), normally output VAT would be charged for sales activities and/or certain services pursuant to regulations with respect to VAT reform, and input VAT occurs on purchases of goods (inclusive VAT paid on importation) and/or receiving certain services. The balance of output VAT and input VAT (ie output VAT minus input VAT) shall be VAT payable to Chinese tax authority. A negative balance could be carried forward to the next tax period for deduction without restriction of time.

VAT taxpayers are classified into VAT general taxpayer and VAT small-scale taxpayer based on their business size and soundness of financial accounting. The standard VAT tax rate is 17% that applies to VAT general taxpayer engaging in sale of goods, providing processing, repair and replacement labour activities, leasing of tangible and movable property or import goods, in addition to circumstances that apply to low tax rate in line with related tax regulation. Multilevel tax rates on various of activities for VAT general taxpayer include the followings:

- sale of goods, providing processing, repair and replacement labour activities, leasing of tangible (movable) property or import goods, VAT rate of 17%
- sale or import certain goods (Grains, edible plant oil, utilities, publications and certain agricultural products), VAT rate of 13%
- provide transportation services, postal services, basic telecommunication services, VAT rate of 11%
- provide modern services (R&D technical services, IT services, cultural innovation services, logistics auxiliary services, attestation and consulting services, and broadcasting, film and television services), VAT rate of 6%
- 0% – export (pursuant to tax circulars issued subsequent to the provisional regulations, VAT refund rates for export sale vary depending on the specific nature of goods. Thus, VAT on export sale is in effect not subject to zero rate for certain items).

Industrial and commercial taxpayers whose annual sales respectively are not in excess of RMB500,000 Yuan and RMB800,000 Yuan, and amount of annual sales of taxable services are not in excess of RMB5 Million Yuan, could be identified as a small-scale taxpayer and subject to tax rate of 3%. Small-scale taxpayers could be registered as VAT general taxpayer on a voluntary basis in spite of the annual sales not meeting the threshold.

In principle, in addition to taxable items a VAT rate of 0% applies to any purchase of goods and/or receiving services that would not and/or could not be applied to taxable items on which would generate output VAT (eg VAT exemption), therein the input VAT cannot be claimed for deduction.

Pursuit to Provisional Regulations of People's Republic of China (PRC) on VAT, Article 10 (with unofficial English translation), we listed the below short list of what could not be deducted for your reference:

Provisional Regulations of the People's Republic of China on Value-added Tax

Article 10, the input tax amount of the following items shall not be allowed for offsetting against the output tax amount:

- 1) Procured goods or taxable services for use in non-value-added tax taxable items, value-added tax-exempted items, collective welfare or personal consumption.
- 2) Procured goods and the relevant taxable labour services which are subject to abnormal losses.
- 3) Procured goods or taxable services consumed by work-in-progress and finished products which are subject to abnormal losses.
- 4) Self-consumption consumables of taxpayers stipulated by the finance and tax authorities of the State Council.
- 5) Transportation fees for goods stipulated in item (1) to item (4) of this Article and transportation fees incurred for sale of tax-exempted goods.

## Is there a registration limit for the tax?

China has legal regime of tax registration that requires taxpayers to register its business activity in related tax authorities for tax management purposes. A taxpayers withholding agent shall perform registration in an official written form to the competent tax authority when an organisation is newly formed or before a business is formally shut down, and when change occurs during an operation period within a statutory time limit.

The competent tax authority would determine and elect the type of applicable tax on which should be imposed based on the description of taxpayer's registered business scope during the process of tax registration.

The implementation of VAT regime relies on a formal VAT invoice (including VAT invoice and VAT special invoice) issued by Chinese tax authority. As aforementioned, VAT taxpayers are classified into VAT general taxpayer and VAT small-scale taxpayer in China, a VAT general taxpayer is required to use a VAT special invoice through VAT the anti-forgery tax control system for the purpose of purchase, issuance, cancellation and verification of printed copies of VAT special invoices and the corresponding electronic data.

In China, each organisation should be registered as an independent taxpayer, consolidated VAT tax filing occurs under very rare circumstances.

## Does the same registration limit apply to non-established businesses?

Generally only organisations legally established within China's territory will be required to register in the competent tax authority, non-resident enterprises are not required to declare its tax status. If any taxable activities are performed by a non-resident enterprise in China, a withholding agent or related party in the transaction should withhold tax on behalf of non-resident enterprises in accordance with relevant regulations.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Not applicable. There is no specific legislation that applies to non-resident supplies of electronically supplied/digital services from a China tax perspective.



## Does a non-established business need to appoint a fiscal representative in order to register?

No, it is not required that non-established business needs to appoint a fiscal representative in order to register. Nevertheless, a withholding agent will be needed for withholding tax purpose if any taxable activity occurs pursuant to Provisional Regulations of People's Republic of China (PRC) on VAT, Article 18.

Listed below, the provision of Article 18 with unofficial English translation for reference:

*Provisional Regulations of the People's Republic of China on Value-added Tax*

*Article 18, where overseas organisations or individuals engaging in provision of taxable services in the People's Republic of China do not have a business establishment in the People's Republic of China, their agent in the People's Republic of China shall act as the withholding agent; where there is no agent in the People's Republic of China, the buyer shall act as the withholding agent.*

## How often do returns have to be submitted?

A newly formed company is required to start to file VAT tax returns to its competent tax authority in the month following the official tax registration. VAT returns normally cover an accounting period of one month from the first day to the end of the last day of a calendar month. Taxpayers should submit monthly VAT tax returns and make tax payments due within 15 days of the following calendar month.

## Are penalties imposed for the late submission of returns/payment of tax?

Taxpayers not complying with tax filing rules such as a delay of tax return submissions may receive a fine of RMB2000 Yuan to RMB10000 Yuan. While the delay of tax payment may be subject to a tax overdue charge at the rate of 0.05% per day, pursuant to the Law of Administration of Tax Collection, Article 62 and Article 32.

Listed below is the provision of Article 62 and Article 32 with unofficial English translation for reference:

*Law of Administration of Tax Collection*

*Article 62, where, within the specified time limit, a taxpayer fails to go through the formalities for tax declaration and submit information on tax payment or a withholding agent fails to submit to the taxation authorities statements on taxes withheld and remitted, or collected and remitted and other relevant documents, the taxpayer or withholding agent shall be ordered by the taxation authorities to rectify within the specified time and may be fined not more than 2,000 yuan; if the offenses are serious, the taxpayer or withholding agent may be fined not less than 2,000 yuan but not more than 10,000 yuan.*

*Article 32, where a taxpayer fails to pay taxes or a withholding agent fails to remit tax payments within the specified time limit, the taxation authorities shall, in addition to ordering the taxpayer or withholding agent to pay or remit the tax within the specified time limit, impose a penalty for late payment on a daily basis at the rate of 0.05% of the amount of tax in arrears, from the date the tax payment is defaulted.*

## Are any other declarations required?

Yes, special tax declarations will be required if a taxpayer operates in non-registered area.

Chinese resident enterprises that perform business activities beyond the scope of the registered area would be required to obtain a special certification issued by the competent tax authority.

For example: A company registered in Beijing city needs to sell goods in Nanjing city, the company should obtain the special outside operation certification issued by the Beijing competent tax authority and submit this certification to the tax authority of Nanjing city, otherwise the company will be subject to tax filing obligation in Nanjing city.

## Are penalties imposed in other circumstances?

Yes, penalties range from 50% to 500% may be imposed where a taxpayer is identified as deliberately evading tax pursuant to the Law of Administration of Tax Collection, Article 63.

Listed below is the provision of Article 63 with unofficial English translation for reference:

*Law of Administration of Tax Collection*

*Article 63, where a taxpayer evades tax, the taxation authorities shall recover the payment of the amount of tax the taxpayer fails to pay or underpays and the penalties for late payment, and the taxpayer shall also be fined not less than 50 percent but not more than five times the amount of tax the taxpayer fails to pay or underpays; if a crime is constituted, the taxpayer shall be investigated for criminal liability in accordance with law.*

## Can the VAT incurred by overseas businesses be claimed if they are not registered in China?

Not applicable.

The concept of VAT in China applies to domestic organisations. Under most circumstances, a normal VAT refund occurs when a China resident enterprise exports goods or certain services to overseas customers. A China resident can declare a refund or exemption of VAT and consumption tax paid in the multiple segments of commodity production, commodity circulation, ie exportation of goods applies to VAT rate of 0% and exempt from consumption tax.

## What information must a VAT invoice show?

A VAT invoice must show the following:

- an invoice number, which is unique and sequential
- invoice date
- buyer's name, tax identification number, address and phone, name of bank and bank account number
- security code (password)
- a description sufficient to identify the goods or services supplied to the customer
- seller's name, tax identification number, address and phone, name of bank and bank account number
- name of payee, reviewer, drawer and the seal of the seller.

For each different type of item listed on the invoice, the followings must be shown:

- name of goods or services supplied to the customer
- specification models
- unit, quantity, unit price and total amount, excluding VAT
- rate of VAT that applies to what's being sold
- amount of tax to be paid
- total amount payable, including VAT.

The VAT invoice for a VAT small-scale taxpayer is similar to a VAT special invoice which applies to VAT general taxpayer except for number of copies. There is one more copy namely a 'deduction form' in a VAT special invoice for the input VAT deduction purpose of comparing with the VAT invoice.

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# India

## Indirect tax snapshot

### *What are the current rate(s) of VAT?*

India has a dual taxation structure, which results in the levy of multiple indirect taxes by the central and state government(s). The rate of principal indirect taxes are as follows:

- Customs duty effective rate of approximately 29.44%
- Central excise duty: 12.5%
- Service tax: effective rate is 14.5% (including Swachh Bharat Cess of 0.5%)
- Value Added Tax (VAT)/Central Sales Tax (CST): Varies from state to state and also the goods sold. Typically, the rate varies from 1% to 15%.

### *Are there any confirmed or anticipated changes to these rates?*

Yes, it is anticipated that Goods and Service Tax (GST) would be implemented in India soon. The rate of GST has not been declared by the government as yet.

### *What is the principal indirect tax?*

Principal Indirect tax applicable are as follows:

Union levy by the central government:

- customs duty: on import of goods into India
- central excise: on manufacture of goods in India
- service tax: on the provision of services.

State based levies by the respective state governments:

- VAT: state-based tax on intra-state sales of goods
- CST: central tax on inter-state sales of goods, administered and controlled by the appropriate state(s).

Other key indirect taxes:

- R&D cess: central cess on import of technology to India
- entry tax/Octroi: state-based tax on the entry of goods into a state/ municipality for use, consumption or sale therein
- professional tax: state-based tax leviable on professions, trades, callings and employments
- luxury tax: state-based tax on specified luxuries and certain facilities, services, enjoyment, utilities, etc.
- property tax: leviable by a government on a person's real or personal property
- entertainment tax: state-based levy on entertainment activities
- anti-dumping duty: central levy to rectify the trade distortive effect of dumping by other countries at a price lower than its normal value.



|   |  |
|---|--|
| <i>Is there a registration limit for the tax?</i>   | Yes. The registration limit is typically based on the goods/ services and the turnover of the assessee.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. Refer comments below   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In case the non-established business is liable to obtain registration, the non-established business would require a representative to obtain registration. |
| <i>How often do returns have to be submitted?</i>   | The periodicity of returns differ based on the indirect tax law. Refer comments below.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. The penalty as prescribed in the indirect tax law is levied for delay in filing the returns or discharging the liability.                             |
| <i>Are any other declarations required?</i>   | There are prescribed declarations in the indirect tax laws to be included on the invoices, documents, etc. for levy of tax/ availment of exemptions.       |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. A range of penalties can be imposed for contravention of respective laws.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. cross border credit is not directly feasible to be availed.  |
| <i>Deduction of VAT</i>   | Various indirect tax laws have separate valuation rules determining the deduction to be allowed subject to prescribed conditions.                          |

## What is the principal indirect tax?

India has a dual taxation structure, which results in the levy of multiple indirect taxes by the central and state government(s). Key indirect taxes applicable are as follows:

### Customs duty

Customs duty, a central government levy, is leviable on import/export of goods to and from India.

India follows the Harmonised System of Nomenclature (HSN) classification rules and the goods are classified under different chapter/tariff headings (based on eight digit coding) primarily according to their description, components and use. Presently, the effective standard rate of customs duty that is applicable on the import of goods is approximately 29.44%, subject to exemption/ concessions as may be available/ notified from time to time and free trade agreements entered into by India with other countries. However, presently there is no export duty leviable on goods exported from India, except in public interest as notified.

### Central excise duty

Central excise duty, a central government levy, is leviable on the manufacture/ deemed manufacture of excisable goods in India.

India follows the HSN classification rules, and the goods are classified under different chapter/tariff headings primarily according to their description, components and use. The standard rate of excise duty is 12.5%, subject to exemption/ concessions as may be available/ notified from time to time. Generally, excise duty is exempted on export of goods from India or supplies to SEZs/ EOU, etc. (deemed exports).

### Service tax

Service tax, a central government tax, is leviable on provision of services.

India follows a negative list regime wherein all services, except those specifically notified to be exempted, are taxable. Presently, the standard rate of service tax is 14% and Swachh Bharat Cess of 0.5% is applicable on the taxable value of services provided subject to exemption/concessions, as may be notified from time to time.

Typically, a service provider in India is liable to discharge service tax. A service recipient in India liable to pay the service tax in terms of cross border receipt of services and certain domestic services also.

### Value Added Tax (VAT)/Central Sales Tax (CST)

VAT is levied on intra-state sale of goods and is collected by the respective state government.

CST is levied on inter-state sale of goods and is collected by the State from where the movement of goods, which are meant for sale, commences.

Every State has its own VAT legislation and independent tariff for fixing the rate of goods for intra-state/inter-state sale of goods. The rate of local VAT depends on the description of the goods, the rate of tax mentioned in the applicable state VAT tax legislation and various VAT tax concessions/exemptions as may be available in such state.



**Goods and Service Tax (GST):**

The Indian Government has proposed that the indirect tax regime in India be replaced with a comprehensive dual GST, to be levied concurrently by the centre (CGST) and the states (SGST). Integrated GST (IGST) is also proposed to be levied, which will replace CST. It aims to tax both goods and services traversing between states. The following key taxes are proposed to be included in GST.

| Central level   | State level                     |
|---|---------------------------------|
| Additional customs duties (CVD and SAD)                     | State VAT                       |
| Central excise duty   | Central sales tax               |
| Service tax   | Entry tax                       |
| Special excise duty (on medical and toiletries preparation) | Luxury tax                      |
| Various auxiliary cesses and levies (such as R&D cess)      | Entertainment tax               |
|   | Taxes on lotteries and gambling |

**Is there a registration limit for the tax?**

The registration limit for the principal indirect taxes as stated above are as follows:

**Customs duty:**

Every dealer importing/ exporting goods to/from India is required to obtain an import export code.

**Central excise duty:**

Every manufacturer of excisable goods (on which excise duty is leviable), except the following, are required to obtain registration:

- person engaged in manufacture of goods liable to NIL rate/ exempted from duty subject to terms and conditions specified
- person exempt from excise duty based on the threshold limit of clearances made in a financial year.

**Service tax:**

Every person providing taxable services is liable to registration in case the turnover during a financial year exceeds Rs. 9 lakhs. However, the service tax registration is mandatory in case where an assessee is liable to discharge service tax as a recipient of service (for certain notified services). An assessee may obtain voluntary registration in case the turnover has not exceeded Rs. 9 lakhs.

**VAT/CST:**

The threshold limit for VAT/CST registration for each state is specified in the state specific VAT law. An assessee may obtain voluntary registration in case the turnover has not exceeded the specified limit.

**Does the same registration limit apply to non-established businesses?****Customs duty:**

The non-established business importing/ exporting goods from India would be liable to obtain an import export code

**Central excise duty:**

In case the non-established business manufactures any products/ goods in India, the said non-established business would be required to obtain registration.

**Service tax:**

A non-established business (i.e. an entity not having a business establishment or a fixed establishment in India) is not required to obtain registration in India. The service recipient is liable to discharge service tax in case the place of provision of service (determined in accordance with the 'Place of Provision of Service Rules', 2012) is in India.

**VAT/CST:**

A non-established business would be liable for VAT / CST registration in a state, in case such non-established business effects any sale/ purchase (above a specified threshold limit) from the said state.

**Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?**

No, there is no specific tax legislation to levy tax on non-resident supplies of electronically supplied/digital services to private consumers resident in India.

However, under the service tax laws, the service recipient is liable to discharge service tax under reverse charge mechanism for the receipt of electronically supplied/ digital services in case in case the place of provision of service (determined in accordance with the 'Place of Provision of Service Rules', 2012) is India.

Also, it is relevant to note that, an importer would be liable to discharge import duty (at the rate specified in the customs tariff) on the import of goods in India, if any.

Further, it would be relevant to analyse other non-tax legislation/ regulations for supply of electronic/ digital services to private consumers in India.

## Does a non-established business need to appoint a fiscal representative in order to register?

In case the non-established business is liable to obtain registration (refer to comments for question 3), the non-established business would require a representative to obtain registration.

## How often do returns have to be submitted?

The periodicity for filing returns for the principal indirect taxes is as follows:

### Customs duty:

The master/agent of the vessel or an aircraft is required to provide an import manifest (an import report in case of a vehicle), within 24 hours after arrival in the case of a vessel and 12 hours after arrival in the case of an aircraft or a vehicle in the prescribed form.

After the unloading of the goods, an importer has an option to clear the goods for home consumption after payment of the duties leviable or to clear them for warehousing without immediate discharge of the duties. Every importer is required to file a bill of entry for home consumption or warehousing in the form, as prescribed.

Under the Electronic Data Interchange (EDI) system, an importer is not required to file a formal bill of entry as the same is generated in the computer system. However, the importer is required to file a cargo declaration with the prescribed particulars.

### Central excise duty:

| Central excise returns |   |             |                                    |
|------------------------|---|-------------|------------------------------------|
| Return                 | Category of assessee  | Periodicity | Due date                           |
| ER-1                   | All Assesseees (Non SSI)  | Monthly     | 10th day of succeeding month       |
| ER-2                   | EOUs  | Monthly     | 10th day of succeeding month       |
| ER-3                   | Small Scale Industries (SSI)*   | Quarterly   | 10th day of succeeding quarter     |
| ER-4                   | Annual Financial Statement for units paying more than one crore duty (CENVAT + PLA) stating the details of the annual financial | Annually    | 30 November of the succeeding year |
| ER-5                   | Return with details of input-output ration for units paying more than one crore duty (CENVAT + PLA) stating the details of      | Annually    | 30 April of current year           |
| ER-6                   | Return with details of principal inputs for units paying more than one crore duty (CENVAT + PLA)                                | Monthly     | 10th day of the succeeding month   |
| ER-7                   | All assesseees  | Annually    | 30 April of the previous year.     |

\* SSI having a turnover of less than Rs. 4 crores in previous year.

| Central excise duty payment |  |                                   |
|-----------------------------|--|-----------------------------------|
| Category of assessee        | Periodicity  | Due date                          |
| SSI Units                   | Quarterly- April to December (i.e. first 3 quarters) | 6th day of the subsequent quarter |
|                             | Quarterly- January to March (i.e. last quarter)      | 31 March                          |
| Non- SSI unit               | Monthly April-February                               | 6th day of the subsequent month   |
|                             | Monthly- March                                       | 31 March                          |

### Service tax:

| Service tax returns |            |
|---------------------|------------|
| Periodicity         | Due date   |
| April-September     | 25 October |
| October- March      | 25 April   |

| Service tax payments   |                                 |
|------------------------|---------------------------------|
| Periodicity            | Due date                        |
| Monthly April-February | 6th day of the subsequent month |
| Monthly March          | 31 March                        |

### VAT/CST:

The periodicity of filing returns varies from state to state and is determined based on the turnover of the dealer in a particular state. The due dates range from the 15th day of the subsequent month to 31st day of the subsequent month.

## Are penalties imposed for the late submission of returns/payment of tax?

### Customs duty:

The customs authorities provide the bill of entry with the details of the import duty payable. In case the importer fails to discharge the payment within five working days from the date on which the bill of entry for home consumption is returned for payment of duty, the said importer would be liable to an interest of 15% per annum.

### Central excise duty:

The manufacturer is liable to a late fees of Rs 100 per day subject to a maximum of Rs 20,000 for delay in filing the excise returns.

The rate of interest payable for delay in the payment of duty is 18% per annum. Further, an assessee would also be liable to a penalty of 1% per month for each month or part of the month in case the assessee fails to pay the duty declared in the returns within one month from the due date.

### Service tax:

The late submission of returns is liable for late filing fees up to Rs 20,000 (depending upon the delay in the returns). The late filing fees are as follows:

| Period of delay                            | Late fee (in INR)  |
|--|--|
| for delay up to 15 days                    | INR 500  |
| for delay beyond 15 days but up to 30 days | INR 1,000  |
| for delay beyond 30 days                   | INR 1,000 + INR 100 per day (from the 31st day subject to a maximum amount of Rs 20,000) |

The late payment of service tax is liable to interest and the rate of interest is as follows:

| Period of delay                     | Rate of simple interest  |
|-------------------------------------|--|
| Up to six months                    | 18%  |
| More than six months up to one year | 18% for the first six months of delay; and<br>24% for the delay beyond six months  |
| More than one year                  | 18% for the first six months of delay<br>24% for the delay beyond six months upto one year; and<br>30% for delay beyond one year |

#### VAT/CST:

The interest/penalty applicable for late filing of returns and late payment of VAT/CST liability due varies from state to state.

### Are any other declarations required?

There are prescribed declarations in the principal indirect tax laws to be included on the invoices, documents, etc. for levy of tax/ availment of exemptions.

### Are penalties imposed for the late submission of returns/payment of tax?

Yes. A range of penalties can be imposed where assessee fails to comply with the provisions of the principal indirect tax laws.

Typically, penalties may be levied in case of non-filing of periodic returns, failure to maintain proper books of accounts and records, etc.

Further, criminal proceedings (prosecution) are typically initiated under certain specified provisions of law.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in India?

No, the indirect taxes incurred by overseas businesses cannot be claimed if they are not registered in India. The refunds under the principal indirect tax laws are subject to terms and conditions specified in the said indirect tax law.

### What information must a VAT invoice show?

#### Customs duty:

Not applicable, as the importer typically accepts the commercial invoice issued by the seller along with the packing list.

#### Central excise duty:

Triplicate serially numbered invoices containing the following details shall be issued by the manufacturer:

- registration number of the manufacturer
- address of the concerned 'Central Excise Division'
- name of the consignee
- description and classification of the goods
- time and date of removal, mode of transport and vehicle registration number
- rate of duty, quantity and value, of goods
- the duty payable thereon
- signature or digital signature of the manufacturer.

The triplicate invoices shall be marked with the following details:

- the original copy being marked as 'ORIGINAL FOR BUYER'
- the duplicate copy being marked as 'DUPLICATE FOR TRANSPORTER'
- the triplicate copy being marked as 'TRIPLICATE FOR ASSESSEE'.

#### Service tax:

A person providing taxable services shall issue a serially numbered invoice containing the following:

- name, address and registration number of the service provider
- name and address of the service receiver
- description and value of taxable service provided or agreed to be provided
- service tax payable thereon
- signature or digital signature of the service provider or an authorised person.

#### VAT/CST:

The details required on an invoice vary from state to state.

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# Indonesia

## Indirect tax snapshot

*What are the current rate(s) of Value Added Tax (VAT)?*

- The general VAT rate is 10%.
- A VAT rate of 0% (zero per cent) is applied to the following taxable events:
  - export of taxable goods
  - export of intangible taxable goods
  - export of certain taxable services, ie:
    - toll manufacturing
    - repair and maintenance services related to the movable goods utilised outside the customs zone
    - construction service related to the immovable goods that located outside customs zone.

### Special VAT rates

Certain businesses or activities are subject to output VAT based on a deemed percentage of transaction value and are not entitled to claim credits for the input VAT incurred:

|                               |   |
|-------------------------------|---|
| Travel agent                  | 1%  |
| Courier service               | 1%  |
| Certain small-scale retailers | 4%/3%* (4% for taxable services and 3% for taxable goods) |
| Self-construction             | 4%  |
| Used cars retailer            | 1%  |
| Gold jewellery retailer       | 2%  |

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in the Indonesia.

*Is there a registration limit for the tax?*

Yes.

*Does the same registration limit apply to non-established businesses?*

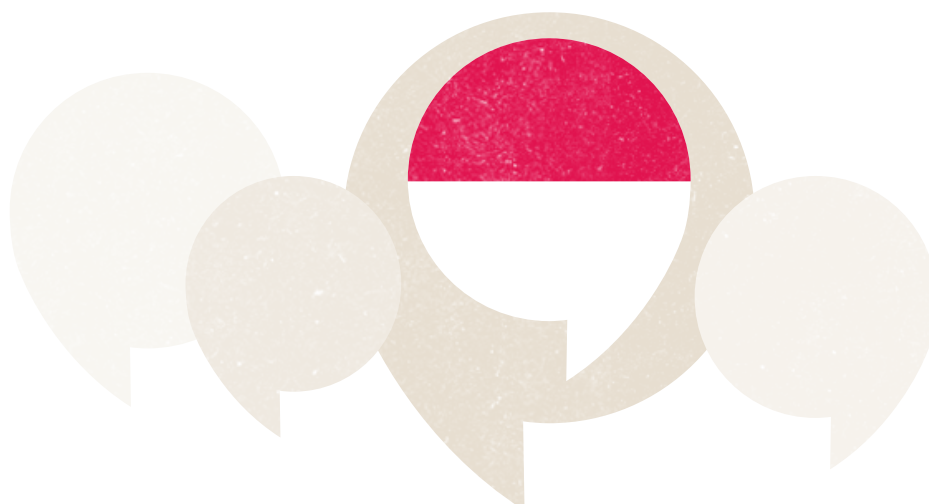
There is no requirement for VAT registration for businesses that are not established in Indonesia.

*Does a non-established person need to appoint a fiscal representative in order to register?*

Not applicable.

*How often do returns have to be submitted?*

VAT returns should be submitted on a monthly basis.





|   |   |
|---|---|
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes.  |
| <i>Are any other declarations required?</i>   | No, only VAT return on a monthly basis.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties of 2% from the transaction value can be imposed for late issuance of VAT invoice or issue incorrect VAT invoice.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No.   |
| <b>Deduction of VAT</b>   | <p>A VAT invoice is an instrument to levy VAT (for the seller) and to claim VAT credit (for the buyer). The format and contents of a VAT invoice must follow guidelines set by the Indonesian tax authority. Incomplete preparation of a VAT invoice can cause it to be considered deficient and thus subject to penalties for the seller and disallowed as credit for the buyer.</p> <p>Certain transactions may generate VAT that will not be available for credit. These situations include:</p> <ul style="list-style-type: none"> <li>• VAT incurred prior to the entrepreneur being registered for VAT</li> <li>• VAT incurred before the entrepreneur starts production, except from the acquisition of capital goods</li> <li>• VAT on purchases with no direct connection to the conduct of the company's business</li> <li>• VAT imposed by way of tax assessments</li> <li>• defective VAT invoices</li> <li>• purchase and maintenance of sedan and station wagon type of vehicles, unless they are inventory for sale/rental</li> <li>• overlooked input VAT not yet credited and only discovered after a tax audit has commenced</li> <li>• purchases made by those exempted from charging output VAT.</li> </ul> |

## What is the principal indirect tax?

Value Added Tax (VAT) is the principal indirect tax in the Indonesia. VAT due on the following taxable events, among others:

- import and export of taxable goods
- local supply of taxable goods and/or services
- consumption of services and/or intangible goods from offshore within the Indonesian customs zone
- movement of taxable goods between the head office and a branch and between branches of the same legal entity
- movement of goods on consignment
- assets/inventories left behind in the course of a company's dissolution
- supply of goods through a third party or a government auctioneer
- supply of goods through a finance lease arrangement
- self-use of taxable goods
- delivery of taxable goods in the context of a Shariah financing arrangement, which delivery is considered to be directly from the VATable entrepreneur to the party that needs the taxable goods
- taxable goods given away at no charge (free goods)
- export of intangible taxable goods and taxable services.

Certain goods and services are not subject to VAT. These include:

### Non-taxable goods

- Goods produced from mining or from drilling that are extracted directly from the source
- basic commodities vital to the general public
- food and beverages served in restaurants, including food and beverages delivered by catering businesses
- money, gold bars, and commercial paper.

### Non-taxable services

- Medical health services
- social services
- mail delivery service using stamps
- financial services
- insurance services
- religious services
- educational services
- arts and entertainment services
- non-broadcast service advertisements
- public transport services on land and on water and air transport services within the country which become an inseparable part of air transport services to abroad
- labour services
- hotel services
- services provided by the government in respect of carrying out general governmental administration
- parking provision
- public telephone services using coins

- money transfer services using postal money orders
- catering services.

### Is there a registration limit for the tax?

Registration as a VAT payer in Indonesia is based on sales of taxable goods and/services. Entrepreneurs exceeding certain annual sales of taxable goods and/or services are required to register. However, entrepreneurs domiciled in a 'free area' are not required to register.

Non-established business could not register for VAT in Indonesia.

### Does the same registration limit apply to non-established businesses?

There is no requirement for VAT registration for businesses that are not established in Indonesia.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is no specific legislation for supplies of electronically supplied/digital services in Indonesia. However, there is a specific regulation on utilization of service from non-resident as described below.

Resident taxpayers receiving and utilizing taxable services and/or taxable intangible goods from offshore or from a Free Area are obliged to self-assess, report and pay 10% VAT calculated from the gross amount paid or payable. The self-assessed VAT is due when the intangible taxable goods and/or services start to be utilized in Indonesia. The deadline for payment of self-assessed VAT is no later than 15th of the month following the time when the VAT becomes due. Such self-assessed VAT serves as input VAT, subject to the general rules for creditable input VAT.

### Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

### How often do returns have to be submitted?

The due date for submission of the VAT return is at the end of the following month after the end of the tax period. Any underpayment of tax must be settled before submission of the annual tax return.

The tax return is filed by taxpayer based on self-assessment system. Member of group of companies are taxed individually, as there are no group relief provisions available.

### Are penalties imposed for the late submission of returns/payment of tax?

Yes. Late payment of tax will be subject to interest penalty of 2% per month, maximum 24 months. Late reporting of a VAT return would also be subject to administrative penalty (current penalty is IDR 500,000 per return).

### Are any other declarations required?

No, only VAT return on a monthly basis.

### Are penalties imposed in other circumstances?

Yes. Penalties of 2% from the transaction value can be imposed for late issuance of VAT invoice or issue incorrect VAT invoice.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Indonesia?

No.

## What information must a VAT invoice show?

A VAT invoice must show at least the following:

- the name, address and registration number of the taxpayer delivering the taxable goods or taxable services
- the name, address and registration number of the taxpayer buying the taxable goods or receiving the taxable services
- the types of goods or services, the selling price or service fee and any discount
- the value added tax collected
- the luxury sales tax collected
- the code, series number and date on which the tax invoice is made
- the name and signature of the person authorised to sign the VAT invoice.

Certain documents are treated as VAT invoices. These include among others:

- export declaration on taxable goods, taxable services and intangible goods (with accompanying invoice)
- import declaration (with accompanying payment slips)
- ticket, airway bill or delivery bill issued for domestic air transport services
- service delivery notes issued for port service
- utility payment evidence
- tax payment slip (SSP) for payment of self-assessed VAT on the use of offshore intangible goods and/or services.

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# Japan

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | Standard rate of 8% for most goods and services consumed domestically.   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | There is a planned increase to 10% from April 2017.  |
| <i>What is the principal indirect tax?</i>  | Consumption tax is the principal indirect tax in Japan. It is a tax on consumer expenditure, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>   | <p>An enterprise is exempt from consumption tax reporting obligations for a given tax year if consumption taxable sales in both the base period (the tax year two years prior) and the first six months of the immediately preceding fiscal year, are below JPY 10M.</p> <p>Newly established domestic or foreign enterprises (ie enterprises without a base period for the given tax year) with capital below JPY 10M at the beginning of the tax year, and foreign corporations with no sales in Japan during the base period, are also exempt.</p> <p>The above exemptions only apply to reporting obligations to the tax authorities. If a transaction is taxable for consumption tax, then it should be charged on the fee regardless of whether the seller or service provider is below the reporting threshold.</p> |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Yes.   |
| <i>How often do returns have to be submitted?</i>   | Most enterprises are required to submit consumption tax returns on an annual basis. Returns may also be filed more frequently depending on the taxable sales amount.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a consumption tax return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | No.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.   |



## What is the principal indirect tax?

Japan's Value Added Tax (VAT), or consumption tax, is an 8% indirect value-added tax on most goods or services transactions in Japan. As with VAT in other jurisdictions, collection of the tax is the obligation of businesses at all stages of production, while the economic burden of the tax is ultimately borne by the end consumer.

With limited exceptions, any business that transfers goods or provides services in Japan for consideration is required to file a consumption tax return on at least an annual basis, and more frequently if selected by the taxpayer or if consumption tax payable in the prior fiscal year meets certain thresholds.

Businesses can generally reclaim consumption tax paid on their purchases of goods or services. If tax paid to suppliers (input tax) exceeds tax collected on sales (output tax), the business may claim a refund for the difference. If output tax exceeds input tax, the difference is payable to the tax authority.

Consumption tax applies, with limited exceptions, to any transfer of a good or service for consideration in Japan, and to the removal of goods from a Japan customs area. Because the tax is intended to apply only to goods and services consumed domestically, export transactions are not subject to the tax. This includes most services provided to non-residents, transactions of goods to be directly exported, and goods to be shipped outside Japan that enter and are temporarily held in Japan customs.

For various policy reasons, certain types of non-export transactions that would otherwise fall within the scope of consumption tax are also non-taxable. These transaction categories include:

- lease or sale of land
- sale of stocks or bonds
- transfer of commercial paper
- interest and insurance fees
- government fees
- school tuition and fees
- certain nursing care or welfare services
- residential rent.

## Is there a registration limit for the tax?

Consumption tax is based on the transaction itself. If it is a taxable transaction, then consumption tax should be charged regardless of whether the seller or service provider files tax returns. This enables the purchaser to claim a credit for the tax paid in their consumption tax return.

Whether an enterprise needs to file a tax return to report the consumption tax charged on its sales depends on their taxable sales in previous periods. An enterprise is exempt from consumption tax reporting obligations for a given tax year if consumption taxable sales in both the base period (the tax year two years prior) and the first six months of the immediately preceding fiscal year, are below JPY 10M.

Newly established domestic or foreign enterprises (ie enterprises without a base period for the given tax year) with capital below JPY 10M at the beginning of the tax year, and foreign corporations with no sales in Japan during the base period, are also exempt. Under recent reforms, for fiscal years beginning on or after 1 January 2013, an enterprise is exempt only if its taxable sales are below JPY 10M in both the first six months of the previous fiscal year and the base period.

Taxpayers anticipating to be in a refund position may apply in advance of the tax year to select a more frequent payment (refund) period than what would otherwise be required. If a payment period is elected, it cannot be changed for at least two years.

## Does the same registration limit apply to non-established businesses?

Yes.

## Does a non-established business need to appoint a fiscal representative in order to register?

Overseas entities with no presence in Japan that are either, required or elect to file a consumption tax return must appoint a tax agent to handle their filing obligations.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Under the consumption tax law reform, books, music, advertising etc. distributed through telecommunication lines (collectively telecommunicated services) will be deemed to be provided in the location of the purchaser. This change is applicable from 1 October 2015.



Cross-border telecommunicated services provided by foreign enterprises fall into two categories, 'B2B' transactions and 'B2C' transactions. B2B transactions are cross-border service transactions established through telecommunication lines such as internet or telephone lines where the recipients of the services are identified as enterprises with reference to the nature of service or trading terms etc. B2C transactions are cross-border service transactions provided both inside and outside of the country through telecommunication lines such as internet or telephone lines, which do not fall under the definition of B2B transactions with reference to the nature of service or trading terms etc.

Foreign enterprises engaging in B2B transactions will need to make it clear to domestic enterprises (recipients of the service) that the purchase of the services is subject to consumption tax.

Foreign enterprises engaging in B2C transactions will be required to file a consumption tax return and pay consumption tax to the government.

In the case of B2C transactions, the recipients will not be allowed to take a credit for the consumption tax on the transactions unless the foreign enterprises are registered. If this is the case, the services are categorised as B2C transactions from a registered foreign enterprise and the recipients will be able to take a credit for the consumption tax paid under certain conditions.

The national tax authorities publish the name of registered foreign enterprises on the internet. Please check the national tax agency website for further details:

[https://www.nta.go.jp/foreign\\_language/consumption\\_tax/04.htm](https://www.nta.go.jp/foreign_language/consumption_tax/04.htm).

## How often do returns have to be submitted?

The annual consumption tax return and corresponding payment are due within two months of the end of the applicable tax period. For a corporation, the tax period is its fiscal year. More frequent filing and payment are required if consumption tax payable in the prior tax period meets certain thresholds:

| Tax payable prior year (JPY) | Filing and payment frequency |
|------------------------------|------------------------------|
| Above 48 million             | Monthly                      |
| 4 million to 48 million      | Quarterly                    |
| 480,000 to 4 million         | Semi-annually                |
| Below 480,000                | Annually                     |

## Are penalties imposed for the late submission of returns/payment of tax?

### Late filing

|  |   |
|--|---|
| Voluntary late filing  | 5% of total tax payable   |
| Non-voluntary late filing (late filing in response to a request from the tax office or in anticipation of an assessment, etc.) | 15% of total tax payable on amounts up to JPY 500,000, 20% on amounts above JPY 500,000 |

### Understatement of tax

10% annual interest charge on unpaid tax up to the greater of JPY 500,000 or the declared liability amount, 15% thereafter

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

No.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Italy?

As described above, an overseas business that anticipates a refund can elect to be a consumption tax return filer. The election is irrevocable for two years. If the business does not have a presence in Japan, a tax agent needs to be appointed to act on their behalf.

## What information must a VAT invoice show?

An invoice must show:

- an invoice number which is unique and sequential
- the seller name and address
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of consumption tax charged.

Where a consumption tax invoice includes non-taxable or export services, it must:

- show clearly that there is no consumption tax payable on those goods or services
- show the total of those values separately.

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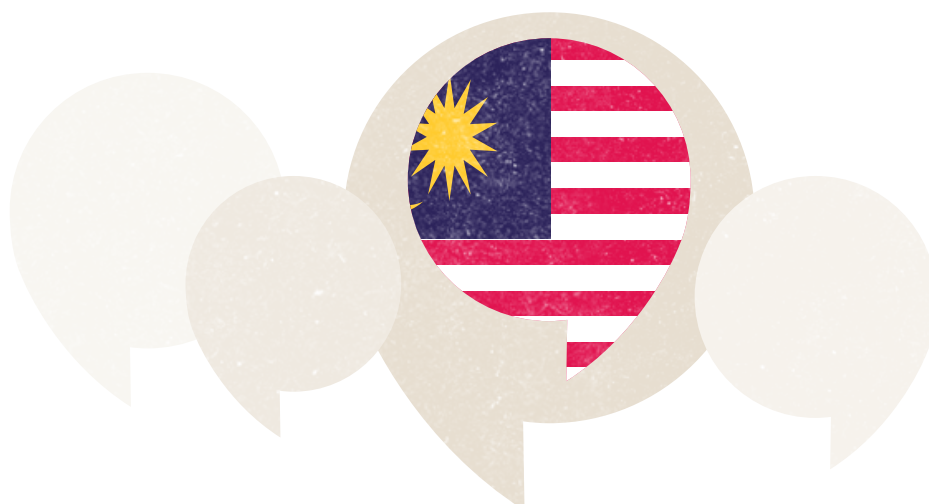




# Malaysia

## Indirect tax snapshot

|  |  |
|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"><li>• Standard rate of 6% for goods and services unless listed under the zero-rated supply order, exempt supply order or relief order and their respective amendments.</li><li>• Zero-rated goods and services include selected food and medicines.</li><li>• Exempt goods and services include residential properties and financial services.</li></ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Goods and services tax (GST) is the principal indirect tax in Malaysia. It was introduced from 1 April 2015 and replaced the previous regimes comprising of sales tax and service tax.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. It is compulsory for taxable persons with a taxable turnover exceeding RM500,000 over a twelve month period to register for GST purposes. There are also provisions for voluntary registration.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | The compulsory and voluntary registration provisions do not distinguish between businesses established in Malaysia or outside Malaysia.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Yes.   |
| <i>How often do returns have to be submitted?</i>  | Either monthly or quarterly.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes.   |
| <i>Are any other declarations required?</i>  | No.  |
| <i>Are penalties imposed in other circumstances?</i>   | Yes. Penalties can be imposed for a range of other offences.   |



*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

No.

#### *Deduction of VAT*

Input tax credit generally cannot be claim for GST incurred for expenses relating to:

- Passenger motor car and the hire of such
- The supply of goods and services relating to the repair, maintenance and refurbishment of a passenger motor car
- Club subscription fee
- Payment of contribution towards any insurance contracts or takaful certificates in relation to medical treatment or personal accidents (except obligatory under selected legislations and certain collective agreements)
- Medical expenses (except obligatory under selected legislations and certain collective agreements)
- Family benefits
- Entertainment to a person other than employees or existing customers (except if the business is of providing entertainment).

## What is the principal indirect tax?

Malaysia introduced the Goods and Services Tax (GST), replacing and repealing the previous sales tax and services tax of Sales Tax Act 1972 and Service Tax Act 1975, effective from 1 April 2015. The standard rate of GST is 6% generally, and zero per cent on selected items. GST is chargeable on all taxable supplies of goods and services made in the course of furtherance of a business in Malaysia by a taxable person.

GST is also chargeable on the importation of goods and services from overseas. Certain goods are given relief from payment of GST upon importation. GST will be charged on most goods based on the value of the imported goods, which includes value determined for customs purposes, customs duty paid or to be paid, and excise duty paid or to be paid. The GST amount will be shown in a K1 form, and will be charged during importation of the goods.

For importation of services, the GST liability shifts from the supplier to the recipient of the imported services. The recipient is liable to account for GST output tax based on the date of the invoice or the date of payment, whichever is earlier, if such imported services are for business purposes and consumed in Malaysia. If the recipient is making taxable supplies, they are entitled to claim input tax on the services. However, if the recipient is making exempt supplies, output tax accounted for and paid by the person is not eligible for input tax credit.

## Is there a registration limit for the tax?

A taxable person is a person who makes taxable supplies or intends to make taxable supplies in Malaysia with a taxable turnover of RM500,000 or more over a twelve-month period. The period reviewed is the historical twelve-month period as well as the prospective twelve months. Such a person is required to be registered for GST purposes. A person who makes taxable supplies below the threshold is not required to register but may do so on a voluntary basis.

## Does the same registration limit apply to non-established businesses?

Businesses not established in Malaysia are subjected to the same registration requirements if they are making taxable supplies in Malaysia.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is no specific legislation. However, administratively, a recipient who is not a GST registered person may account for GST output tax in a prescribed GST04 form.

## Does a non-established business need to appoint a fiscal representative in order to register?

Yes. A person who does not belong to Malaysia is subject to the same requirements for registration if he makes taxable supplies in Malaysia. In the event that person is liable to register, he is required to appoint a local agent to act on his behalf. An agent acting on behalf of his principal who does not belong in Malaysia is responsible and accountable for his principal's tax liabilities.

## How often do returns have to be submitted?

Registered taxable persons with a taxable turnover of RM5,000,000 or more will be required to submit monthly returns. Registered taxable persons with a taxable turnover not exceeding RM5,000,000 will be required to submit quarterly returns, with the end of one of the taxable periods coinciding with end of the fiscal year of the registered taxable person.

The end of the taxable period for each return is generally the end of a calendar month. The due date for the submission of a return is end of the calendar month following the end of the taxable period. Provisions are available for applications to be submitted to the Director General for alternative taxable periods.

GST returns may be submitted manually or electronically via a web portal known as the 'Taxpayers Access Point'.

## Are penalties imposed for the late submission of returns/payment of tax?

Yes. The penalty for late payment of the tax when prosecution is not instituted is:

- 5% of the tax due and payable for the first thirty-day period
- an additional 10% of the tax due and payable for the second thirty-day period
- an additional 10% of the tax due and payable for the third thirty-day period, subject to a maximum penalty of 25% of the amount of tax due and payable.

Prosecution may be instituted after the expiry of the third-thirty period. A fine of not exceeding RM50,000 or to imprisonment for a term not exceeding three years or to both, may be imposed on prosecution and conviction of failure to pay the tax. The court may also order for a penalty similar to the penalty that may be imposed if prosecution was not instituted.

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

Yes. Penalties can be imposed for a range of other offences, including:

- incorrect returns
- evasion and fraud
- improperly obtaining refund
- offences relation to goods, invoices and receipts
- obstructing an officer
- refusing to answer question or providing false information
- abetment.

A general penalty also is applicable on a conviction of an offence under the 'Goods and Service Tax Act' where no penalty is expressly stated in the legislation. The general penalty is a fine not exceeding RM30,000 or an imprisonment term not exceeding two years or to both.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Malaysia?

No.

## What information must a VAT invoice show?

A GST tax invoice must show:

- 'Tax Invoice' in a prominent place
- serial number
- date of tax invoice
- name, address and GST registration of supplier
- name and address of the recipient of the supply
- description of each of the goods or service
- the type of supply (ie standard rated, zero rated or exempt), quantity of good or extent of services and the amount payable excluding tax
- discounts offered if any
- total amount payable excluding the tax, the rate of tax and the total tax chargeable shown separately
- total amount payable including total tax chargeable
- if any of the amounts are expressed in a foreign currency, their Ringgit Malaysia equivalent must be stated.

There are provisions for the issuance of simplified tax invoices which does not contain all the requirements of a tax invoice, as well as the issuance of self-billed invoices.

## GST Audit File (GAF)

GST registered taxpayers must be able to produce a GST Audit File (GAF) on the request of the authorities, usually in the event of an audit. A GAF is essentially a computer file containing the basic information of the taxpayer with a formatted and summarised list of all the transactions in a given taxable period.

There are two formats specified for a GAF – bar-delimited text format or XML format. The schema for each format is specifically detailed and contains various information of each transaction.

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# New Zealand

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 15% for most goods and services.</li> <li>Zero-rated supplies include exported goods and services, the sale of a 'going concern' to a GST registered person and transactions involving the supply of land between GST registered persons.</li> <li>Exempt supplies include financial services, residential rent, fines, penalties and interest.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Goods and Services Tax (GST) is the principal indirect tax in New Zealand. It is a transactional tax and is charged and collected on taxable supplies.   |
| <i>Is there a registration limit for the tax?</i>   | Yes. If the annual turnover of taxable supplies in New Zealand exceed (or are expected to exceed) \$60,000 in any 12 month period, it is necessary to register. Persons can voluntarily register for GST if this threshold is not exceeded if they are conducting a taxable activity and are making taxable supplies.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes. However specific rules exist in relation to non-resident businesses and whether they are entitled GST register. This depends on whether they are a 'resident' or 'non-resident' for GST purposes (a slightly different test than that for income tax purposes) and where the goods are physically located at the time of supply or where the services are physically performed.                               |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | No, although many non-residents do engage with local agents to reduce compliance and operational matters.  |
| <i>How often do returns have to be submitted?</i>   | Returns can be submitted on a monthly, two-monthly, or six-monthly basis depending on the annual turnover of taxable transactions of the registered person.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a GST return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Shortfall penalties, ranging from 20% to 150% of the tax shortfall, can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. A business must be registered for GST in New Zealand to be eligible to claim any GST. With effect from 1 April 2014 a non-resident entity can register without having a taxable activity in New Zealand. This allows a pure recovery mechanism if certain criteria are met.  |



## What is the principal indirect tax?

Goods and Services Tax (GST) is the main type of indirect taxation in New Zealand.

GST is a tax on consumption which is applied on the supply of most goods and services. It is also applied to goods upon importation into New Zealand and certain services when purchased from a non-resident. Although GST is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority rests with the business making the supply i.e. the sale.

GST must be charged on a supply of goods or services in New Zealand by a registered person in the course of furtherance of a taxable activity carried on by that person – this is referred to as output tax. Any GST on costs incurred in generating such supplies can be claimed – this is referred to as input tax. The difference between the output tax and the deductible input tax in each accounting period will be the amount of GST payable by the business to Inland Revenue. Where the input tax exceeds the output tax, a refund can be claimed.

A taxable activity means any activity which is carried on continuously or regularly, whether or not for pecuniary profit, and involves or is intended to involve the supply of goods and services to another person for a consideration.

There are two rates of GST that are applied to goods and services in New Zealand; standard rate and zero rate. In addition, some goods and services are exempted from the tax. The most common exempt supplies include financial services, residential rent, fines, penalties and interest.

Generally, businesses that make exempt supplies are unable to claim input tax on costs incurred generating those supplies, so the GST paid to suppliers is a ‘real’ cost to these businesses. However, there is the ability for businesses that supply exempt financial services to elect to zero-rate their supplies which enables a greater recovery of GST, where:

- an election is lodged with the Commissioner of Inland Revenue; and
- the supply is between two registered persons; and
- the recipient of the supplies makes at least 75% taxable supplies.

This is referred to as the provision of ‘business to business’ financial services.

Goods imported into New Zealand are subject to GST. This is imposed by New Zealand customs at the border. The GST (plus any duties and other fees) must be paid by the importer at the time of importation in order for the goods to be released. Where the goods imported are for use in the taxable activity, the importer (if GST registered) can recover the GST. GST is charged on the value of the importation, including any customs duty, freight and insurance.

It is important to note the interaction between GST and customs duty. Customs duty is levied upon the importation of certain goods into New Zealand. Unlike other indirect taxes, such as GST, once duty has been paid it is not recoverable by the importer. It therefore represents a final cost to the importing business.

Customs does not collect duty and GST where the total amount payable on any one importation is less than \$60. For example, if no duty is payable, this equates to a de minimus value of \$400 under which no GST is payable.

## Is there a registration limit for the tax?

A person who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a taxable activity must register for GST if the value of its taxable supplies in New Zealand exceed \$60,000 or is expected to exceed this limit within any 12 month period. A person can register on a voluntary basis even if the registration limit has not been reached.

For these purposes, a ‘person’ includes any legal entity. Therefore, once a person is registered for GST, all of their business activities will be covered by the registration – even if the nature of some of those activities are different.

Two or more persons can be registered together as a GST group if:

- they satisfy the ‘control’ test i.e. one of them controls each of the others, or one person controls all of them
- for companies, each of the companies is a registered person, or the total value of taxable supplies made by the companies is at least 75% of the total supplies made by the group to persons outside the group
- for companies, the members of the group have at least 66% common ownership.

A person cannot be treated as a member of more than one GST group at a time.

The main advantage of GST group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for GST purposes. This reduces the risk of GST being accidentally omitted on supplies between separately registered, but associated persons.

However, there are some disadvantages and any decision on whether to group register should be carefully considered. For example, all GST group members (including former members) are jointly and severally liable for the GST debt of the group during the period of their membership.

### Does the same registration limit apply to non-established businesses?

Yes, although non-resident businesses are only able to register for GST in New Zealand if their taxable supplies are generated when the time of supply occurs within New Zealand.

Time of supply arises at the earlier of an invoice being issued or payment being received.

For example, a non-resident selling goods direct to a New Zealand customer over the internet would not be able to register for GST if the goods are outside of the country when the payment is received. However, with effect from 1 April 2014 the ability for a non-resident to GST register has been expanded (further information can be found below).

### Does a non-established business need to appoint a fiscal representative in order to register?

No, this is not a requirement. However, depending upon the types of supplies being made, the logistical considerations and the volume of transactions, non-residents may engage with a local agent to facilitate the supply. Specific GST provisions exist regarding transactions involving agents that should be considered before making any decisions.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

New legislation will take effect from 1 October 2016 which requires non-resident suppliers of remote services to register, charge and account for GST on supplies made to New Zealand residents. A 'remote' service is defined as a 'service where, at the time of the performance of the service, there is no necessary connection between the physical location of the recipient and the place of physical performance'. GST does not need to be charged if the service is provided to a New Zealand GST-registered businesses unless the supplier and recipient agree otherwise, in which case the supply will be zero-rated.

### How often do returns have to be submitted?

GST returns may be filed monthly, bi-monthly or six monthly depending upon the level of taxable supplies in a 12 month period.

A bi-monthly return period is the default filing frequency in New Zealand. However, if a registered person makes taxable supplies of less than \$500,000, they may apply to the Commissioner to return GST six-monthly. Conversely, if a registered person makes taxable supplies over \$24 million in a 12 month period, they are required to return GST on a monthly basis. Anyone can choose to file monthly if they so desire.

All GST returns have to be submitted on the 28th day of the following month, together with any payment. The exceptions to this rule are where the period ends 30 November, or 31 March. Returns and payments for these periods are due 15 January and 7 May respectively. If the due date falls on a weekend or public holiday the due date is pushed back to the next business day.

### Are penalties imposed for the late submission of returns/payment of tax?

Late filing penalties are imposed if GST returns are not lodged by the due date. The current penalties per late return are \$250 for taxpayers registered on an invoice or hybrid basis and \$50 if registered on a payments basis.

A registered person will incur late payment penalty of 1% of their underpaid GST obligation on the first day after the due date, a 4% incremental penalty on the seventh day after the due date, and then a further 1% incremental each month thereafter.

In addition, interest will be charged on the accumulating total. The current interest rate charged by Inland Revenue is 9.21%.

### Are any other declarations required?

Not applicable.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the GST legislation.

Shortfall penalties and interest can be applied for incorrect positions taken in GST returns. These penalties are very punitive, ranging from 20% to 150% of the GST discrepancy.

If an error is identified and voluntarily disclosed to Inland Revenue this reduces or removes the shortfall penalty exposure (depending upon the nature of the offence and whether the disclosure was made pre or post audit notification).

### Can the GST incurred by overseas businesses be claimed if they are not registered in New Zealand?

No. You must register in New Zealand in order to recover any GST incurred.

Non-resident businesses are able to register for GST if they conduct a taxable activity in New Zealand. This requires the goods to be physically in New Zealand at the 'time of supply', or for services, those services must be physically performed in New Zealand. The time of supply provisions state that this event arises at the earlier of the issuing of an invoice or receipt of payment.

From 1 April 2014, non-residents businesses that are not making taxable supplies in New Zealand are able to voluntarily register for GST in order to recover the GST on costs they incur. To be eligible to register the business will have to:

- be registered for consumption tax in the jurisdiction they are tax resident
- where the jurisdiction of residence does not have a consumption tax, the person is carrying on a taxable activity, and has a level of taxable activity in a country or territory that would render them liable to be registered if they were carrying out the taxable activity in New Zealand (ie more than \$60,000 of taxable supplies in a 12 month period).

### What information must a GST invoice show?

A GST invoice must show:

- the words 'Tax invoice'
- the seller's name and address
- the seller's GST registration number
- the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the total amount of GST charged expressed in New Zealand dollars.

It must also have either:

- the amount of the supply, excluding GST
- the GST and total amount payable for the supply
- if GST is included in the final price, it has to be expressed in that case.

An input claim can only be made if a valid tax invoice is held at the time the GST return is lodged.

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# Pakistan

## Indirect tax snapshot

*What are the current rate(s) of VAT?*

- Standard rate of 17% for most of goods and 14% to 16% for most of services.
- Reduced rates for certain goods and services are also applicable subject to respective conditions applicable thereto.
- Zero-rate of tax is applicable for export of goods and certain services.

*Are there any confirmed or anticipated changes to these rates?*

Majority of changes are usually notified by end of June each year which are applicable from first day of July i.e. start of fiscal year in Pakistan.

*What is the principal indirect tax?*

General Sales Tax is the principal indirect tax in Pakistan. It is applicable on taxable supplies and imports.

*Is there a registration limit for the tax?*

No pecuniary limit. Every manufacturer, importer, wholesaler, distributor or dealer is required to obtain registration.

*Does the same registration limit apply to non-established businesses?*

Not applicable.

*Does a non-established person need to appoint a fiscal representative in order to register?*

Not applicable.

*How often do returns have to be submitted?*

Sales tax returns are required to be submitted on monthly basis.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. Penalties are applicable for delayed submission of returns. Default surcharge is separately applicable for delay in payment of tax.

*Are any other declarations required?*

Not applicable.

*Are penalties imposed in other circumstances?*

Yes. Penalties are applicable for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Not applicable.

*Deduction of VAT*

A registered person shall not be entitled to deduct input tax from output paid in respect of:

- transactions lacking evidence in support thereof
- gifts and giveaways
- food, beverages, garments, fabrics and other items for consumption or entertainment
- items not directly used in making taxable supplies.



## What is the principal indirect tax?

The principal indirect tax in Pakistan is General Sales Tax (GST) charged on taxable goods under Sales Tax Act, 1990 (the Act). GST is a Value Added Tax (VAT) in which the value added component at each stage of business transaction is taxed. GST is collectable from a registered person at import and charged by a registered seller of taxable goods. Tax credit or input tax is allowed when the registered person keeps proper record of claim regarding tax invoice and bill of entry. The goods meant for export were zero-rated. The tax paid on raw materials and other goods purchased in the course of business are deducted automatically while determining the tax liability. The system is based on self-assessment/clearance procedure and payment of tax.

Sales tax on service has also been introduced in Pakistan from 2011. Such tax is being charged, levied and collected by provincial governments in different provinces under their respective provincial legislations. Rate of tax on services varies from 14% to 16% in different provincial jurisdictions.

## Is there a registration limit for the tax?

No pecuniary limit/threshold for registration is here. Every manufacturer, importer, wholesaler, distributor or dealer is required to obtain registration. A person required to be registered shall submit an application through the computerised system along with the following documents, namely:

- a) CNIC of all owners, members, partners or directors, as the case may be, and the representative, if any, and in case of non-residents, their passports
- b) in case of a company or registered AOP, the Registration or Incorporation Certificate, along with Form III or Form A as prescribed in the Companies Ordinance, 1984 (XLVII of 1984)
- c) in case of a partnership, the partnership deed
- d) bank account certificate issued by the bank in the name of the business
- e) lease or rent agreement, if the premises are rented, along with CNIC of the owner of the premises
- f) ownership documents of the premises, such as registered sale deed or registered transfer deed
- g) latest utility bills (electricity, gas, land-line telephone, and post-paid mobile phones, as the case may be)
- h) list of machinery installed, in case of manufacturer
- i) distribution certificate from the principal showing distributorship or dealership, in case of distributor or dealer
- j) balance sheet/statement of affairs/equity of the business
- k) particulars of all branches in case of multiple branches at various locations
- l) particulars of all franchise holders in case of national or international franchise.

## Does the same registration limit apply to non-established businesses?

Not applicable.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Yes, such services like advertisement are taxable even if provided from an offshore location outside the territorial jurisdiction of Pakistan.

## Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

## How often do returns have to be submitted?

GST returns cover a tax period of one month, ending on the last day of a calendar month. A registered person is required to furnish its monthly return by 15th of next month. Payment of GST is also required to be made before submission of return.

## Are penalties imposed for the late submission of returns/payment of tax?

In case of sales tax on goods, a penalty of PKR 5,000 is applicable for delay in submission of return. Default surcharge at the rate of KIBOR plus 3% is applicable for delay in payment of tax.

For sales tax on services, different rates of penalties and default surcharge are applicable for late submission of returns and payment of tax respectively in different provincial jurisdictions.

## Are any other declarations required?

In addition to the monthly sales tax return, an annual sales tax return is also required to be submitted.

## Are penalties imposed in other circumstances?

Yes. A range of penalties are applicable for default of other legal requirements as well.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Pakistan?

Not applicable.

## What information must a VAT invoice show?

A GST invoice must show:

- a unique serial number
- seller's name and address
- seller's GST registration number
- date of issue of invoice
- date of supply
- customer's name and address
- a description and quantity of the goods or services supplied to the customer
- value exclusive of sales tax
- amount of sales tax
- value inclusive of sales tax.

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# Philippines

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 12% for all taxable sale, barter, exchange, lease of goods or properties and supply of services.
- Zero-rated sales include export sales, foreign currency denominated sales, sale of power or fuel generated through renewable sources of energy, services rendered to international shipping vessels or aircraft transport companies, transport of passengers and cargo by domestic air and sea carriers from the Philippines to foreign country, and sales to tax-exempt persons under special laws or international agreements, processing, manufacturing or repacking goods or services for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).
- Exempt sales cover transactions such as:
  - sale or importation of agricultural and marine food products (in original state), livestock and poultry generally used for human consumption
  - sale or importation of fertilizers, seeds, seedlings, fingerlings, and feeds
  - sales by registered agricultural cooperatives
  - sales by registered non-agricultural, non-electric and non-credit cooperatives
  - services by agricultural contract growers and millers of palay, corn and sugar cane
  - educational services
  - sale of low-cost and social housing
  - medical, dental, hospital and veterinary services (except those rendered by professionals)
  - gross receipts from lending by credit or multi-purpose cooperatives
  - sale, importation, printing or publication of books, magazines and newspapers
  - services subject to percentage tax (eg services of banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries, among others)
  - services rendered by individuals pursuant to an employer-employee relationship
  - importation of personal and household products belonging to Philippine residents returning from abroad and non-resident citizens coming to resettle in the Philippines provided exempt from tariff and customs duties
  - importation of professional instruments and implements, wearing apparel and domestic animals and personal household effects (except any vehicle, aircraft, machinery) belonging to persons coming to settle in the Philippines for their own use, whether carried by them or arriving within 90 days before or after the arrival of such persons
  - Services rendered by regional or area headquarters acting as supervisory and coordinating centres and do not earn or derive income
  - lease of residential unit with a monthly rental not exceeding P12,800
  - export sales by persons who are not VAT-registered





- sale, importation or lease of passenger or cargo vessels and aircraft
- importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations
- sale or lease of goods or properties or services by persons whose gross annual sales or receipts do not exceed Php 1,919,500.

|   |  |
|---|--|
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in the Philippines. It is levied on the sale, barter, exchange, lease of goods or properties and services in the Philippines, and on importation of goods into the Philippines.  |
| <i>Is there a registration limit for the tax?</i>   | Yes. Any person or entity engaged in trade or business whose annual gross sales and/or receipts exceed Php 1,919,500 is required to register as a VAT taxpayer. If their gross sales and/or receipts do not exceed Php 1,919,500, they may opt not to register as a VAT taxpayer but will be subject instead to 3% percentage tax on their gross quarterly sales or receipts   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. A non-resident foreign corporation supplying goods to any person in the Philippines is not required to register as a VAT taxpayer in the Philippines.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | No. The appointment of a fiscal representative is not required in the Philippines. In case a non-established person is subject to VAT in the Philippines, the VAT shall be withheld and remitted by the person or entity in the Philippines making the income payment to the non-resident alien individual or non-resident foreign corporation.  |
| <i>How often do returns have to be submitted?</i>   | All VAT taxpayers are required to file monthly VAT declarations and quarterly VAT returns.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Surcharge, interest and compromise penalty apply to late filing and payment of VAT due.  |
| <i>Are any other declarations required?</i>   | Yes. All VAT taxpayers are required to submit a quarterly summary list of sales, purchases and importation used for computerized matching of VAT taxpayers' records.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. The option to refund is available only in certain circumstances to VAT-registered taxpayers in the Philippines.  |
| <i>Deduction of VAT</i>   | <p>Taxpayer can deduct from the gross selling price sales discounts granted and determined at the time of sale which are expressly indicated in the invoice and which amounts form part of the gross sales duly recorded in the books of accounts. All the conditions should be complied with.</p> <p>Sales allowances and sales returns which are not supported by documents (ex. credit memos, etc.) cannot be deducted from the gross sales subject to VAT.</p> |

## What is the principal indirect tax?

The Value-Added Tax (VAT) is the principal type of indirect tax in the Philippines. VAT is levied on the sale, barter, exchange, lease of goods or properties and services in the Philippines, and on importation of goods into the Philippines. The VAT is the liability of the supplier of the goods or services but the burden of the tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). If at the end of any taxable quarter, the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to certain conditions.

However, with respect to purchases of depreciable assets, the aggregate acquisition cost of which, in a calendar month, exceeds Php1 million regardless of the acquisition cost of each capital good, the input taxes from these purchases should be spread evenly over a period of 60 months or the useful life of the capital goods, whichever is shorter.

There are three rates of VAT that are applied to goods and services in the Philippines; the standard rate of 12% and the zero rate. In addition, some goods and services are exempted from VAT.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, in which case, the VAT paid would form part of the cost to acquire what was purchased.

The input tax on purchases of goods, properties or services related to zero-rated sales shall be available as input tax credit against the output tax due from transactions subject to the 12% VAT rate, or can be recovered from the government by applying for a tax refund or tax credit.

Goods imported into the Philippines are subject to VAT equivalent to 12% based on the total value used by the Bureau of Customs in determining tariff and customs duties, plus customs duties, excise taxes, if any, and other charges prior to the release of such goods from the customs custody.

Export sales of VAT-registered entities that enjoy tax incentives under the Philippine Economic Zone Authority (PEZA) or the Board of Investments (BoI) are zero-rated. PEZA and BOI-registered entities are not subject to 12% VAT on importation, subject to certain conditions.

### Is there a registration limit for the tax?

Registration for VAT is mandatory to all persons or entities engaged in trade or business whose annual gross sales and/or receipts exceed Php 1,919,500. In case of taxpayers whose gross sales and/or receipts do not exceed Php 1,919,500 million, they may opt not to register as VAT taxpayer. However, they are required to pay 3% tax on their gross quarterly sales or receipts.

Branches must register separately from the head or main office, although only one consolidated VAT return must be filed for the principal place of business or head office and all of its branches. There is no group VAT registration in the Philippines.

If a person who is liable to register for VAT fails to register, he/it shall be liable to pay output VAT as he/it were a VAT-registered person, but without the benefit of input tax credits for the period in which he was not properly registered. The person who fails to register may also face suspension or closure of its business for a period of not less than five days.

### Does the same registration limit apply to non-established businesses?

An overseas company which is not established in the Philippines is not required to register for VAT in the Philippines.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

The Philippines follow the consumption doctrine which means that services rendered outside the Philippine territory is not subject to Philippine Tax. However, in some cases involving e-commerce and electronically downloaded software, the payments shall be considered as an importation subject to VAT.

### Does a non-established business need to appoint a fiscal representative in order to register?

The appointment of a fiscal representative is not required in the Philippines. In case a non-established person is subject to VAT in the Philippines, the VAT shall be withheld and remitted by the person or entity in the Philippines in behalf of the non-established person by filing a separate VAT declaration/return (BIR Form 1600).

The VAT withheld and paid for the non-established business which VAT is passed on to the person or entity in the Philippines may be claimed as input tax. The duly filed BIR Form 1600 and proof of payment thereof shall serve as documentary substantiation for the claim of input tax by the person or entity in the Philippines upon filing its own VAT return.

## How often do returns have to be submitted?

The Philippine VAT law and regulations imposes upon VAT-registered taxpayers an obligation to file monthly VAT declaration and quarterly VAT returns. The monthly VAT declarations are filed for the first two months of the quarter, while the quarterly VAT return is filed at the end of the quarter.

The monthly VAT declaration returns covering the monthly sales and/or receipts should be filed, and VAT due thereon should be paid not later than the 20th day following the end of the month. In the case of VAT-registered taxpayers enrolled in the electronic filing and payment system (eFPS), their monthly VAT return should be filed on a staggered basis (not later than the 21st day to 25th day after the end of the month) depending on their industry grouping.

On the other hand, the quarterly VAT returns cover the amount of gross sales or receipts for the taxable quarter. The VAT payable for the taxable quarter is reduced by the payments in the monthly VAT declarations and allowable input taxes. The quarterly VAT return should be filed by a VAT-registered taxpayer, whether filing manually or under eFPS, not later than the 25th day following the close of the taxable quarter.

No annual VAT return is required to be filed by VAT-registered persons in the Philippines.

## Are penalties imposed for the late submission of returns/payment of tax?

A late or erroneous return attracts penalties: 25% surcharge, 20% interest and compromise penalty based on the amount of tax unpaid or if there is no unpaid tax, depending on the amount of gross sales or receipt of the taxpayer. The interest is imposed on the unpaid amount of tax from the date prescribed from the payment until the amount is fully paid.

However, in case of wilful neglect to file VAT return within the prescribed period for filing the VAT return or in case a false or fraudulent return is wilfully made, a surcharge of 50% of the tax or deficiency tax shall be collected which shall be in addition to the 20% interest to be imposed on the unpaid amount of tax, and compromise penalty.

## Are any other declarations required?

All VAT-registered taxpayers are required to submit a quarterly summary list of sales (SLS), summary list of purchases (SLP) and, if applicable, summary list of importations (SLI). The information in the summary list of sales, purchases and importation is used for computerized matching to detect under declaration of sales and/or purchases.

VAT registered persons with discrepancy on their sales and/or purchases shall be notified of the findings through the issuance of a letter notice (LN). In case the taxpayer refutes the discrepancy, the taxpayer shall be given the opportunity to reconcile his/her/its records with the BIR and to submit documentary proofs in support of his/her/its arguments.

If no response is received from the taxpayer or he/she/it fails to settle his/her/its deficiency, a letter of assessment shall be issued to the taxpayer.

## Are penalties imposed in other circumstances?

Yes. Various penalties are imposed for violations of the VAT rules.

Aside from the penalties for late and erroneous filing of returns, administrative and penal sanctions may be imposed, among others, in the following cases:

- a) failure to issue receipts and invoices
- b) failure submit the quarterly list of sales and purchases
- c) failure to maintain or keep any record and supply the correct and accurate information
- d) failure to indicate separately the VAT in the VAT invoice or official receipt.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in the Philippines?

No. The VAT incurred by an overseas business may not be the subject of a claim for refund if it is not registered as a VAT taxpayer in the Philippines.

A VAT-registered taxpayer may claim for refund of its unutilized excess input tax if it is attributable to zero-rated sales. It may also refund all of its accumulated input VAT upon closure or cessation of its business.

## What information must a VAT invoice show?

A VAT invoice must show:

- a statement that the seller is a VAT-registered person, followed by his Taxpayer Identification Number (TIN)
- the total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT, provided that:
  - the amount of tax shall be shown as a separate item in the invoice or receipt
  - if the sale is exempt from VAT, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt
  - if the sale is subject to 0% VAT, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt
  - if the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale
- in the case of sales in the amount of one thousand pesos (P1,000.00) or more where the sale or transfer is made to a VAT-registered person, the following additional information should be indicated in the VAT invoice/receipt: (a) the name; (b) business style, if any; and (c) address and TIN of the purchaser, customer or client.

Only VAT invoices and official receipts duly registered with the Bureau of Internal Revenue can be issued and be used as a valid source of input tax. In case the taxpayer uses a computerized accounting system which include e-invoicing, prior approval of the Bureau of Internal Revenue must be secured before using the same.

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# Singapore

## Indirect tax snapshot

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| <i>What are the current rate(s) of VAT?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 7% for goods and services.</li> <li>• Zero-rate for export of goods and for international services</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Goods and Services Tax (GST) is the principal indirect tax in Singapore. It is a broad-based consumption tax and is levied on almost all supplies of goods and services in Singapore and on imports.  |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the turnover of taxable supplies made in a 12 month period, and once the threshold has (or will be) reached it is necessary to register. The current registration threshold is SGD 1 million.                                      |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | The same registration threshold applies to all taxable persons including individuals, residents and non-residents.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Yes. An overseas entity (defined as one that is not a resident in Singapore and/or does not have an established place of business in Singapore) is required to appoint a local agent.   |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit GST returns covering three month accounting periods, ie on quarterly basis. Returns can also be submitted on a half-yearly or monthly basis (subject to conditions and prior approval from the tax authority). |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a GST return or the corresponding payment, is submitted or paid late, a late submission/payment penalty can be imposed.   |
| <i>Are any other declarations required?</i>  | No.   |
| <i>Are penalties imposed in other circumstances?</i>   | Yes. Penalties can be imposed for a range of errors or omissions, providing incorrect information, failure to register, etc.  |



*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

No.

#### *Deduction of VAT*

Disallowed input tax prescribed by legislation include club subscription fee charged by sports and recreation clubs, medical and accident insurance premiums incurred for employees (unless the insurance or payment of compensation is obligatory under the Work Injury Compensation Act or under any collective agreement within the meaning of the Industrial Relations Act), medical expenses, medical expenses incurred for employees (unless such expenses are obligatory under the Work Injury Compensation Act or under any collective agreement within the meaning of the Industrial Relations Act), family benefits; the supply or importation of a private motor car including the costs and running expenses incurred on private registered motor cars and any transaction involving betting, sweepstakes, lotteries, fruit machines or games of chance.

## What is the principal indirect tax?

Goods and Services Tax (GST) is the main type of indirect taxation in Singapore.

It is a tax on consumption which is applied on the supply of most goods and services in Singapore. It is also applied to goods, when imported into the country. Although GST is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the supply chain rests with the business (including individuals) making the supply.

A business registered for the tax will charge GST (output tax) on its sales/services, and incur GST (input tax) on its purchases (including any GST paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of GST payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Singapore GST if the following conditions are met:

- it is a supply of goods or services. Although the term 'supply' is not defined in the legislation, it has a broad interpretation
- the supply is made in Singapore
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for GST in Singapore, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are two rates of GST that are applied to goods and services in Singapore; the standard rate and the zero rate. In addition, some goods and services are exempted from the tax.

Generally, businesses that make exempt supplies are unable to claim the input tax that they incur, so the GST paid to suppliers will be a 'real' cost with the exception of certain financial institutions where the input tax incurred may still be claimed based on a fixed rate prescribed by the tax authority.

All goods imported into Singapore are subject to GST at the standard-rate (except investment precious metals which are exempted from payment of import GST). The tax will have to be paid by the importer at the time of importation (unless the importer is under specific GST schemes/concessions which allow the suspension/deferment of import GST). Where the importation is for business purposes and the importer is registered for GST, it is possible to reclaim the tax.

It is also important to note the interaction between GST and Customs duty. Customs duty is levied on certain goods imported in Singapore. Unlike GST, once customs duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of customs duty is applied. GST is charged on the cost, insurance and freight (CIF) value of the imported goods, including any custom duty.

## Is there a registration limit for the tax?

A taxable person who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for GST if the value of its taxable supplies made in Singapore exceeds the registration threshold, or is expected to exceed the threshold in the next 12 months. A taxable person can register on a voluntary basis even if the registration threshold has not been exceeded.

A taxable person includes an individual, partnership, company, club, association, society, management corporation or non-profitable organisation.

Two or more corporate bodies can be registered together as a GST group if:

1. Each member in the group is already registered for GST individually.
2. Each member in the proposed group must have at least one of the following attributes:
  - a) A resident in Singapore or an established place of business in Singapore;
  - b) Annual turnover of at least \$1 million;
  - c) Listed on a securities exchange established in or outside Singapore;
  - d) A subsidiary of a body corporate that fulfills (b) or (c); or
  - e) financed by an entity (as part of its venture capital investment business) who fulfills (b) or (c).
3. The nominated representative member must be a Singapore resident or has an established place of business in Singapore. A company has an 'established place of business' in Singapore if it has a place at which it carries on business in Singapore, its physical presence is connected to a particular premise and this place of business is intended to have a degree of permanence.
4. For application which comprises an overseas person who does not fulfill (2)(a) above, both the foreign member and local representative member must have at least fulfilled (2) (b), (c), (d) or (e).
5. Each member in the proposed group must satisfy one of the following control requirements. In general, control exists when there is a holding company-subsidiary relationship:
  - a) One of the members controls each of the others;
  - b) One non-member (whether a body corporate or an individual) controls all the members; or
  - c) Two or more individuals (non-member) carrying on a business in partnership control all of the members.

The main advantage of GST group registration is that any supply of goods or services by a member of the group to another member of the group is disregarded for GST purposes. This reduces the risk of GST being accidentally omitted on supplies between separately registered related companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all GST group members are jointly and severally liable for the GST liability of the group during the period of their membership.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

The GST registration threshold applies to all businesses regardless of whether it is a resident or non-resident.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Not at the moment. Although Singapore is not a member of the OECD, it agrees with the principles and recommendation proposed by the OECD with regards to the digital economy. Singapore may take steps to implement OECD's recommendations with regards to the digital economy but this is not implemented at this juncture.

## Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in Singapore requires an overseas entity (defined as one that is not a resident in Singapore and/or does not have an established place of business in Singapore) to appoint a local agent to act on his behalf for GST purposes.

## How often do returns have to be submitted?

GST returns normally cover an accounting period of three months, ending on the last day of a calendar month and are lodged on a quarterly basis.

Businesses may also request for special accounting periods to coincide with its financial reporting. Businesses that are in a net refundable position (because of the nature of their activities) may apply to submit returns on a monthly basis to improve cash flow. For certain smaller businesses, they may also apply to submit returns on 6 months basis.

All GST returns have to be submitted within 30 days of the end of the relevant accounting period, together with any tax due. Businesses with direct debit arrangement facility (GIRO) with the tax authority get a further fifteen days (in addition to the normal 30 days) to pay the tax due.

## Are penalties imposed for the late submission of returns/payment of tax?

Penalties may be imposed by the tax authority if GST returns are not submitted on time, or the related tax is not paid by the due date.

When payment is not received by the tax authority by the due date, a 5% penalty may be imposed. A further 2% additional penalty may be imposed 60 days after the 5% penalty is imposed, if the tax is still not paid.

The 2% penalty is imposed for each month that the tax remains unpaid. The total additional penalty that can be imposed is up to 50% of the tax overdue.

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the GST rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or make repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Singapore?

No.

## What information must a VAT invoice show?

A valid tax invoice must show:

- the words 'Tax Invoice' in a prominent place
- an invoice number which is unique and sequential
- the seller's name and address
- the seller's GST registration number
- the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- for each description, the quantity of goods or the extent of services and the amount payable (excluding tax)
- any cash discount offered

- the total amount payable excluding tax, the rate of GST, the total tax chargeable and the total amount payable including tax shown separately (any such amount expressed in a currency other than Singapore currency, must also be expressed in Singapore currency)
- the breakdown of exempt, zero-rated or other supply, stating separately the gross amount payable in respect of each, if applicable.

Where a business makes supplies of goods or services where the amount invoiced including GST does not exceed SGD 1,000, a simplified tax invoice can be issued.

GST invoices can be issued, received and stored in electronic format and there is no need to obtain prior approval from the tax authority (provided the conditions as prescribed by the tax authority are fulfilled). Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# South Korea

## Indirect tax snapshot

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| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>The standard VAT rate is 10% for most goods and services..</li> <li>Zero-rating is applicable only to the traders who are residents or domestic corporations. However, in case of international transportation service by ships or aircraft, the traders who are non-residents or foreign corporations are subject to zero-rating on a reciprocity basis. Zero rated includes: <ul style="list-style-type: none"> <li>goods for exportation</li> <li>services rendered outside Korea</li> <li>international transportation service by ships and aircraft</li> <li>other goods or services supplied for foreign exchange earnings.</li> </ul> </li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in South Korea. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | No, there is no registration limit for the tax. The exemption from liability to pay VAT would be allowed to an individual enterprise whose turnover (including VAT) of the supply of goods or services in a calendar year is less than KRW 24 million.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Not applicable.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | No.   |
| <i>How often do returns have to be submitted?</i>  | Under the Korean VAT law, a company is required to file a VAT return on a quarterly basis, along with payment of the concerned VAT, if any. The VAT payable (or refundable) is determined by deducting the applicable purchase VAT from sales VAT. Furthermore, a company should maintain a purchase and sales register to support the transactions subject to VAT.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.   |
| <i>Are any other declarations required?</i>  | Not applicable.   |





*Are penalties imposed in other circumstances?*

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

VAT on items below are not deductible:

- expenditure without tax invoices and with tax invoices on which any information is omitted or incorrect
- expenditure with a tax invoice issued upon receipt of the supply of goods or services exempt from VAT or not subject to the imposition of VAT
- expenditure not directly related to business
- purchase, hire and maintenance of automobiles not directly used for operating a business
- disbursement of entertainment expenses
- expenditure related to a tax-free business
- expenditure related to land
- expenditure before filing an application for business registration.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in South Korea.

VAT is an indirect tax which is charged on goods/services sold within Korea or imports to Korea by individuals or corporations licensed to carry on business under the Value Added Tax Law (VATL) of Korea. Any tax paid on inputs (purchases) can be used as a credit against tax collected in connection with outputs (sales).

The VAT rate is 10%. Where the tax is applicable on the VAT exclusive price, the 10% rate is applied. However, in case of the VAT inclusive price of the retailers, the tax rate becomes 10/110. Where VAT is not separately collected at the time of the transaction, the tax rate of 10/110 is applicable on the VAT inclusive price.

### Zero-rating

The following goods and services are VAT zero-rated and the input tax incurred is refundable. Zero-rating is applicable only to the traders who are residents or domestic corporations.

However, in case of international transportation service by ships or aircraft, the traders who are non-residents or foreign corporations are subject to zero-rating on a reciprocity basis. . Zero rated includes:

- goods for exportation
- services rendered outside Korea
- international transportation service by ships and aircraft
- other goods or services supplied for foreign exchange earnings.

### Exemption

The supply of the following goods or services is subject to exemption:

- basic life necessities and services
- social welfare services
- goods or services related to culture
- personal services similar to labour
- duty-exempt goods.

The input tax incurred thereon is not refundable, however, traders may elect not to be exempted.

## Is there a registration limit for the tax?

A trader who newly starts a business is required to register the required particulars of each business place within twenty days from the business commencement date. The particulars may be registered before the business commencement date. The tax office having jurisdiction over the business place of the trader will issue a business registration certificate to the trader concerned.

A registered trader who has suspended or closed down a business or who has come to recognise a change in any of registered particulars is required to make a report without delay to the competent tax office. The same applies when a trader who has registered prior to the planned business commencement date fails to actually start their business.

### Special care for the administrative burden of VAT calculation

Under the Korean VATL, the simplified taxation would be allowed to an individual enterprise under certain circumstances whose turnover (including VAT) of the supply of goods or services in a calendar year is less than KRW 48 million. In this regard, the VAT payable would be calculated as below.

VAT payable = A(simplified output VAT) – B (simplified input VAT)

A = Turnover (including VAT) in a calendar year x Average rate of value-added for each category of business (ranging from 5% through 30%) x Flat rate 10%

B = Input VAT on the tax invoice (if any) x Average rate of value-added for each category of business (ranging from 5% through 30%)

In addition to the above, under the current VAT law, the exemption from liability to pay VAT would be allowed to an individual enterprise whose turnover (including VAT) of the supply of goods or services in a calendar year is short of than KRW 24 million.

### Does the same registration limit apply to non-established businesses?

Under the Korean VATL, the simplified taxation would be allowed to an individual enterprise.

Neither a non-resident business entity nor a non-resident individual without a permanent establishment in Korea is obliged to register for VAT purposes. If necessary, the tax authorities may give an identification number for administrative purposes.

### Does a non-established business need to appoint a fiscal representative in order to register?

No.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Effective as of 1 July 2015, the revised Korean VATL requires a foreign service provider to register for and charge VAT on the supply of electronic services to customers in Korea (A foreign supplier includes a non-resident or a foreign corporation without a permanent establishment in Korea).

#### Definition of electronic service

Electronic service means the supply of:

- game, audio, video files, electronic documents or software, or similar items that are processed by optical or electronic means and produced or modified in the form of codes, letters, audio, and video, and any similar items
- the upgrade of such electronic service.

#### Registration requirement

VAT shall apply to electronic services rendered by foreign suppliers in overseas open market for domestic customers, which will be regarded as being rendered in Korea. The registration requirement also applies to a foreign service provider who directly provides electronic services to its Korean customers.

The registration is made with the Korean National Tax Service (NTS) in a simplified way through the NTS website within 20 days from the date of business commencement.

#### Compliance

A registered foreign service provider must file VAT returns and pay VAT on a quarterly basis. The due date of filing is on or before the 25th day, following a quarter-end month. The foreign service provider is not required to issue a VAT invoice.

### How often do returns have to be submitted?

#### Taxable period

In general, the taxable period for VAT is divided into two periods – the first period from 1 January to 30 June and the second period from 1 July to 31 December.

The initial taxable period for any trader establishing a new business is from the starting date of the business to the last day of the taxable period in which the starting date falls upon. Where registration is made prior to the commencement of business, the taxable period begins with the date of registration. On the other hand, the last taxable period for any trader liquidating a business shall be from the beginning date of the taxable period upon which the closing date falls, to the date of closing.

#### Tax return and payment

##### Preliminary return and payment

A trader is required to file a return on the tax base and tax amount payable or refundable to the appropriate tax office within 25 days from the end of each preliminary return period. The first preliminary taxable period is from 1 January through 31 March and the second preliminary taxable period is from 1 July through 30 September.

A trader shall pay the tax amount payable for the preliminary return period to the appropriate tax office at the time of filing the return.

##### Final return and payment

A trader must file, to the competent tax office, a return on the tax base and the tax amount payable or refundable in respect of each taxable period within 25 days after the end of the taxable period concerned.

A trader is required to pay the tax amount payable to the competent tax office at the time of filing the return.

### Are penalties imposed for the late submission of returns/payment of tax?

Penalty taxes mentioned below may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date:

- late filing of the return: 10% of the tax due
- late payment of the VAT due: 0.03% of the unpaid tax per day.

### Are any other declarations required?

Not applicable.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Some of the penalty taxes under the VATL in Korea are as follows:

- penalty tax for non-registration: 1% of supply price
- penalty tax for late issuance of tax invoice: 1% of supply price
- penalty tax for non-issuance of tax invoice: 2% of supply price
- penalty tax for false tax invoice: 2% of supply price.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Kazakhstan?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

When foreign companies or non-residents (foreign business operators) with no permanent establishment in Korea, do business outside Korea, and purchase or receive goods or services in Korea for their business purposes, the VAT may be refundable. However, this regulation applies only where the tax refundable exceeds KRW 300,000.

The following is a list of applicable services:

- food or lodging services
- advertisement services
- electricity and telecommunication services
- real estate leasing services
- office repairing services (in Korea)
- office equipment rental service.

In order to receive the VAT refund, foreign business operators must submit an application for the VAT refund by 30 June of the following year with the following attachments:

- one copy of the Certificate of Business Register (in English or Korean only)
- one copy of a transaction report
- the original copy of the tax invoice (including sales statements of credit cards, etc. which show the VAT amount and personal data of the person who received the supply).

### What information must a VAT invoice show?

An enterprise supplying goods or services, should issue a VAT invoice to the purchaser under the Korean VATL. The contents of the invoice should contain:

#### Mandatory information requirements

- tax identification number and name of goods or service provider
- tax identification number of the purchaser of goods / services
- transaction price and the corresponding VAT amount
- date when the invoice is issued.

#### Non-mandatory information requirements

- address of goods/services provider
- name of goods/services provider and the address of the purchaser
- business type and business items
- name, quantity, and the unit cost of supplied items
- other particulars as prescribed by the 'Presidential Decree'.

Effective from 1 January 2010, all corporate taxpayers are obliged to issue electronic tax invoices, which are transmitted to the national tax service.

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# Taiwan

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 5% for all taxable supplies not otherwise specified.
- Special rates for specified industries:
  - 2% for financial institutions
  - 20/25% for special food and beverage service enterprises
  - 1% for small traders
- VAT-exempted: includes certain essential and unprocessed foods, land, post office stamps, hospital care, educational services
- Zero-rated VAT: includes export of goods and services, sales made by duty free shops to passengers, sales made to business enterprises located in export zone or science park, international telecommunication related business, sales made by international transportation related business (subject to the same reciprocal treatment be given by counter country) and others.

### *Are there any confirmed or anticipated changes to these rates?*

No.

### *What is the principal indirect tax?*

The principal indirect tax in Taiwan is value added tax (VAT). It is charged on taxable supplies that take place in Republic of China (Taiwan).

### *Is there a registration limit for the tax?*

Article 28 of VAT regulations state 'The head office of a business entity and its branches with fixed places of business shall each file an application for business registration individually with the competent tax authority before commencement of business'.

### *Does the same registration limit apply to non-established businesses?*

Yes.

### *Does a non-established person need to appoint a fiscal representative in order to register?*

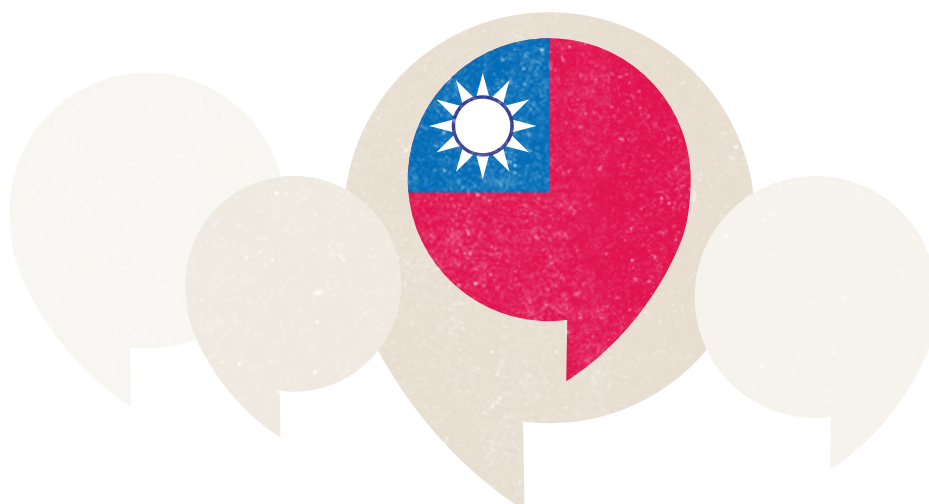
Yes, the non-established business entity needs to appoint a business agent to register VAT in Taiwan.

### *How often do returns have to be submitted?*

Most businesses are required to submit VAT returns bi-monthly. Based on application this can be changed to monthly.

### *Are penalties imposed for the late submission of returns/payment of tax?*

Yes. Late returns and late payment are subject to penalties. The penalty is based on 1% of the tax payable for every two days overdue, provided that the filing is less than 30 days past due. If filing is made after 30 days, there will be other penalties applicable. Late payment of tax is also subject to a 1% surcharge on late payment for every two days in arrears, starting from the day immediately following the date the time limit expires.





|   |   |
|---|---|
| <i>Are any other declarations required?</i>   | Not applicable.   |
| <i>Are penalties imposed in other circumstances?</i>  | Failure to register for VAT or failure to issue Government Unified Invoices in correct manner can also be subject to penalties. |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | In general, no.   |

## What is the principal indirect tax?

The main indirect tax in Taiwan is value added tax (VAT).

Article 1, of Value Added and Non-Value Added Tax law states 'Business tax, in the form of value-added or non-value-added, shall be levied in accordance with this Law on the sale of goods or services within the territory of the Republic of China (R.O.C.) and the import of goods'.

Based on the above, VAT is charged on taxable supplies that take place in Republic of China (Taiwan). The fact that one party to the transaction may not be located in Taiwan is not relevant.

VAT registrants collect the VAT from counter parties to the transactions and pass on the tax to the government via VAT filings as required by local law.

Once an application has been approved for the set-up of a business entity, registrar of a company will automatically pass on related information to tax office for VAT registration. The tax office will notify responsible person of the profit seeking enterprise to report to tax office to purchase the first set of Government Unified Invoice (GUI) books.

District VAT officers on regular basis will also visit registered business entities in the district. If a business entity appears to be non-existing or non-trading, tax officer may at his or her discretion suspend an entity's right to purchase GUI invoice books.

Through control over the serial numbers on GUI, the government can track invoices issued by one business to another. Through cross checking VAT filings to income tax returns, it is difficult for businesses in Taiwan to under-report income.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Yes, there is legislation in Taiwan to tax services provided over internet. The scope of the legislation is fairly broad and in most cases will deem the revenue to be Taiwan source income. Therefore if in doubt, please consult a tax advisor before concluding business arrangements.

Despite of the above, there is an exception rule relating to purchase of packaged software for value less than TWD 3,000 each time. For such small value purchase, tax can be exempted.

## Is there a registration limit for the tax?

Article 28 of VAT regulations state 'The head office of a business entity and its branches with fixed places of business shall each file an application for business registration individually with the competent tax authority before commencement of business'.

Failure to register for VAT is subject to a fine of NT\$3,000 ~ NT\$30,000.

## Does the same registration limit apply to non-established businesses?

As long as the non-established business entity has a permanent establishment conducting trading activities in Taiwan, then there is a need to register for VAT.

## Does a non-established business need to appoint a fiscal representative in order to register?

Yes, the non-established business entity needs to appoint a business agent to register for VAT in Taiwan. If such person is not appointed, the following people could be deemed to be the tax agent for the business entity:

- where the agent, in addition to representing its principal in the purchase of goods, is authorised to regularly represent the principal in making business arrangements and in signing contracts



- where the agent regularly keeps in store goods of its principal and delivers the same, for its principal, to others
- where the agent regularly accepts, for its principal, orders of goods.

### How often do returns have to be submitted?

A VAT filing must be filed at least once every two month and is due on the 15th day following the end of the period. Zero rated taxpayer may apply to file VAT on a monthly basis.

Where the VAT refund is needed, the government will give priority assessment if the VAT filing has been audited by a CPA firm.

### Are penalties imposed for the late submission of returns/payment of tax?

Both late returns and late payment of tax are subject to penalties.

In the event that a business entity fails to file the sales amount or a detailed list of uniform invoices used within the time limit, the business entity shall be liable to a surcharge for late filing or non-filing:

- if the filing is less than 30 days past due, the surcharge shall be equivalent to 1% of the tax payable for every two days overdue. The administrative fine shall not be less than NT\$1,200 or more than NT\$12,000
- if the filing is in excess of 30 days past due, the business entity shall be liable to a non-filing surcharge equivalent to 30% of the tax payable, as determined by the competent tax authority. The amount of this surcharge shall not be less than NT\$3,000 or more than NT\$30,000
- where there is no tax payable, the surcharge for belated filing or non-filing shall be NT\$1,200 and NT\$3,000 respectively.

A taxpayer, failing to pay any tax or surcharge for late filing or non-filing within the specified time limit:

- if the payment made less than 30 days past due, it shall be subject to a 1% surcharge on late payment for every two days in arrears, starting from the day immediately following the date the time limit expires
- if the payment is late thirty days after the time limit, the taxpayer shall be pursued for payment of taxes owed and be fined no more than five times the amount of tax evaded, and the operation of the taxpayer's business may be suspended by the competent tax authority.

Furthermore, any amount of the above tax or surcharges shall be subject to interest charge calculated on a daily basis at the local bank's prevailing rate of one-year term time deposit.

### Are any other declarations required?

Not applicable.

### Are penalties imposed for the late submission of returns/payment of tax?

Failure to register for VAT or failure to issue Government Unified Invoices in correct manner can also be subject to penalties.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Taiwan?

In general, no.

### What information must a VAT invoice show?

A GUI (VAT invoice) must show:

- an GUI number which is unique and sequential which is pre-printed on invoice book purchased from the government
- the purchaser's registered name
- the purchaser's GUI number
- the invoice date
- the customer's name and GUI number
- an item description sufficient to identify the goods or services supplied
- the quantity of goods or the extent of the services
- the unit price excluding VAT
- item subtotal
- the rate of VAT that applies to what's being sold
- the amount of VAT charged expressed in new Taiwan dollar
- the grand total of the transaction.

The GUI number is generally viewed as the identity number of a business entity in Taiwan.

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# Thailand

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- The Value Added Tax (VAT) rate is 7% for most of sales of goods, provision of services and imports.
- A zero percent VAT rate includes, but not limited to, the following activities: (a) export of goods outside Thailand as well as services performed in Thailand and utilized in foreign countries; (b) aircraft or sea-vessels engaged in international transportation; (c) supply of goods and services to government agencies or state-owned enterprises; (d) supply of goods and services to the United Nations and its agencies; (e) supply of goods and services between bonded warehouses or between enterprises located in a duty free zone (EPZs)
- Exempt sales and services includes transactions such as: (a) unprocessed agricultural products and animals; (b) sale of fertilizers; (c) sale of fish meals and animal feeds; (d) sales of newspapers, magazines or textbooks; (e) provision of educational services; (f) provision of medical services; (g) provision of library, museum, or zoological garden services; (h) provision of domestic transport services

### *Are there any confirmed or anticipated changes to these rates?*

The statutory VAT rate is 10%. However, since its adoption the government has announced a reduced VAT rate of 7%, most recently in September 2015. The VAT rate will revert to 10% on 1 October 2016 unless further extended.

### *What is the principal indirect tax?*

VAT is the principal indirect tax in Thailand. It is a broad-based indirect tax on consumption. The liability for VAT lies with the vendor or the service provider during each stage of production and distribution in Thailand. Nonetheless, the actual incidence of the tax is normally borne by the ultimate consumer.

### *Is there a registration limit for the tax?*

Yes. Any person or entity who regularly supplies goods and provides services in Thailand which is not exempt from VAT is required to register for VAT if its annual revenue exceeds Baht 1.8 million.

### *Does the same registration limit apply to non-established businesses?*

No. However, a non-established business however can register for VAT at its option.

### *Does a non-established person need to appoint a fiscal representative in order to register?*

If the non-established person desires to register for VAT it must then appoint a VAT agent in Thailand.

### *How often do returns have to be submitted?*

The VAT return together with payments, if any, must be submitted on a monthly basis. Yes. If a VAT return, or the corresponding payment, is submitted late a penalty and a surcharge can be imposed.

### *Are penalties imposed for the late submission of returns/payment of tax?*

Yes. Where VAT maybe due on a 'reverse charge' basis a separate VAT return and payment must be made within seven days of the month following the transaction.



|   |  |
|---|--|
| <i>Are any other declarations required?</i>   | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Are penalties imposed in other circumstances?</i>  | No. The VAT refund is available only to VAT-registered taxpayers in Thailand.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | There are various kinds of input VAT which cannot be claimed including, for example: (a) insufficient proof that the input VAT was actually paid; (b) the tax invoice contains incorrect or inadequate information; (c) input tax is not directly connected with the business; (d) input tax originated from entertainment expenses. |

## What is the principal indirect tax?

Value Added Tax (VAT) is the principal indirect tax in Thailand. It is a broad-based indirect tax on consumption. The liability for VAT lies with the vendor or the service provider for each stage of production and distribution in Thailand. Nonetheless, the actual incidence of the tax is normally borne by the ultimate consumer. The transactions subject to VAT include sale of goods, provision of services and imports.

VAT returns are filed and VAT is paid on a monthly basis with the filing of a VAT return (Form PP-30). The VAT amount is generally calculated by the business on the basis of the selling price or charges at that particular stage. The monthly VAT liability is then computed by taking the difference between output VAT accrued on its sales for the month and any input VAT credits accrued on its purchases, including credits for prior months. Where the input tax exceeds the output tax either a request for refund can be made or the excess input tax can be carried forward into the future without limit.

The tax base of VAT for general goods and services is the total value received from the supply of goods or services. In addition, tax base also includes any Excise Tax that has been collected in connection with such supply (e.g. sale of motor vehicles). The tax base is exclusive of any discounts or allowances, but only if the discounts or allowances are clearly shown in the tax invoice.

There are two rates of VAT that are applied to goods and services in Thailand:

- the general rate (currently 7%)
- 'zero rated' (0%)

Furthermore, some goods and services are exempt from VAT. In such case the VAT registrant may not claim any input tax credit such that VAT paid is a 'real cost'.

In addition, VAT is also paid at the time of import of goods into Thailand, with the input tax credit realized by the 'importer' of record.

All VAT registrants are required to post their VAT Certificate at their place of business.

## Is there a registration limit for the tax?

Any person or entity that regularly supplies goods and provides services in Thailand which are not exempt from VAT is required to register as a VAT participant if its annual revenue exceeds Baht 1.8 million. A service is deemed to be provided in Thailand if the service is performed in Thailand regardless of where it is utilised or if it is performed elsewhere and utilized in Thailand. A person or entity can still register for VAT even where its annual revenue is lower.

Furthermore, an importer is also subject to VAT in Thailand no matter whether it is a registered person or not. VAT will be collected by the customs department once goods are imported to Thailand.

In addition, an agent who sells goods or renders services on behalf of a trader not resident in Thailand is responsible for payment of VAT. For other non-resident traders, persons responsible for the operation of the business in Thailand on the trader's behalf, have a joint liability with the traders for the VAT. Otherwise, the resident buyer of the goods and services from the non-resident trader is required to pay the VAT (self-assessed or inverse VAT).

In the case where a VAT registrant wishes to open an additional place of business, it must notify the revenue department office not less than 15 days prior to the date of opening the additional place of business in order to obtain the VAT certificate for such place of business.

### Does the same registration limit apply to non-established businesses?

No. A foreign business that is not established in Thailand and has no a permanent establishment or an agent in Thailand is not subject to VAT in Thailand. The foreign business, hence, is not required to register as a taxpayer in Thailand. However, if the foreign business carries on its business through a permanent establishment such as an agent, a subsidiary and a branch in Thailand, the VAT registration requirements shall be applied.

Furthermore, any person or entity who is liable to register VAT in Thailand must submit a registration form to the local Revenue Department Office either before the operation of business or within 30 days after the business's income reaches the threshold.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No current legislation.

### Does a non-established business need to appoint a fiscal representative in order to register?

If a non-established business wishes still to register for VAT at its option, it must appoint a VAT agent to act on its behalf in the filing of monthly VAT returns. In such case the non-established business will then be able to offset any input VAT incurred for local purchases of goods and services against any output VAT collected on the sale of goods to Thai customers.

### How often do returns have to be submitted?

The VAT return together with payments must be submitted on a monthly basis to the Thai Revenue Department within 15 days from the end of the month in which the VAT liability arises. A return must be filed regardless of whether there are any VAT transactions or not.

In case of self-assessed VAT, the VAT return together with payments must be submitted to the Thai revenue department at a local office within seven days from the end of the month in which the VAT liability arises.

For electronic filing of VAT returns a further eight days is allowed for the filing of the return and payment.

If a taxpayer has several places of business, separate returns must be filed at each local revenue department office unless the taxpayer has applied to the revenue department for authority to file a return and pay tax at a single local office.

### Are penalties imposed for the late submission of returns/payment of tax?

If a VAT return or the corresponding payment is submitted late a penalty and a surcharge will be imposed. If the taxpayer fails to file a tax return or a tax remittance return within the time limit, the penalty shall be twice the amount of tax payable or due in the tax month.

If the taxpayer files a tax return or a tax remittance return incorrectly or it contains errors affecting the amount of output tax, input tax or tax payable, the penalty shall be equal to the amount of the deficient output tax, the excess input tax or the tax additionally payable. In addition, the taxpayer must pay the additional penalty based on the number of days from the end of the time limit for paying VAT. The penalty rate can be as high as 20% of tax payable if the payment is made after 60 days from the end of the time limit for paying VAT.

In addition, a surcharge will be imposed when the taxpayer fails to pay or remit tax in full within the time limit. The surcharge is equal to 1.5% per month or fraction thereof of the amount of tax payable exclusive of penalties.

### Are any other declarations required?

There is no another declaration required in Thailand.

### Are penalties imposed in other circumstances?

Various penalties can be imposed where the taxpayer does not comply with the VAT rules. These include penalties for the failure to prepare and deliver a tax invoice to a purchaser; issuing a tax invoice, a debit note or a credit note without a lawful right to do so; using of a false tax invoice; failure to keep the copy of a tax invoice evidencing both input and output taxes; failure to prepare other records as required by law. The penalties can be imposed on both the taxpayer and its directors.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Thailand?

No. The VAT incurred by overseas cannot be claimed if the business is not a VAT-registered taxpayer in Thailand.



## What information must a VAT invoice show?

A VAT invoice shall contain at least the following particulars:

- the word, 'Tax invoice', in a conspicuous spot
- name, address and tax-payer identification number of the registrant issuing the vat invoice, and place of business as it appears in the VAT certification (head office or branch no. 0000X)
- name, address and tax-payer identification number of the purchaser of goods or the recipient of services and place of business as it appears in the VAT certification (head office, or branch no. 0000X)
- serial number of the vat invoice, and of the pad (if any)
- name, type, category, quantity, and value of goods and services
- amount of value added tax computed on the value of goods and services, which shall be clearly separated from such a value
- date of issuance of the vat invoice
- any other information specified by the director-general (ie many documents issued in the same set is required to contain the passage 'Document issued as a set').

The above particulars in the VAT invoice shall be in Thai language with Thai currency unit, and using Thai or Arabic numerals. However, it is possible to issue the VAT invoice in English or other languages under the notification of the director-general of revenue on VAT (No.92).

In addition, a registrant carrying on business of selling goods or providing services by retail to a large number of customers shall have the right to issue a summary tax invoice. However, a registrant carrying on a retail business who wishes to use a cash registering machine for issuing a summary tax invoice shall file an application to revenue department for the use of such a machine.

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# Vietnam

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 10% for most goods and services.
- Reduced rate of 5% generally applies to the provision of essential goods and services, including clean water; fertilizer production; teaching aids; books; medicine and medical equipment; scientific and technical services; unprocessed foodstuffs; sugar and its by-products; various agricultural products and services; and social housing.
- Zero-rated applies to exported goods and services, including goods and services sold to overseas/non-tariff areas and consumed outside Vietnam/ in the tariff areas, goods processed for export or in-country export (subject to conditions); construction and installation in overseas and in non-tariff areas; marine and international transportation services.
- Indirect tax exemption applies to certain agricultural products; goods/ services provided by individuals having annual revenue of VND100 million or below; transfer of land use rights; certain insurance services; financial and credit services; certain securities activities; medical services; teaching and training services; transfer of technology, software and software services; imports of machinery; equipment and material which cannot be produced in Vietnam for direct use in science research and technology development activities or for prospecting, exploration and development of oil and gas fields; goods imported for international non-refundable aid, including from Official Development Aid, foreign donations to government bodies and to individuals; export of unprocessed mineral products.  
Under this treatment, no output Value Added Tax (VAT) shall be charged and the input VAT shall not be creditable, but considered as deductible expenses for Corporate Income Tax (CIT) purposes.

### *Are there any confirmed or anticipated changes to these rates?*

No.

### *What is the principal indirect tax?*

VAT is the principal indirect tax in Vietnam. It is a tax on consumer expenditure and collected by registered businesses at each stage of the production and distribution supply chain.

### *Is there a registration limit for the tax?*

Yes. Entities trading/crafting gold, silver and gems; entities with an annual revenue less than VND1 billion and newly established entities shall declare VAT under direct method; in which, the VAT payable is equivalent to revenue multiply by specific ratio, depending on the business activities. Otherwise, business entities maintaining full books of accounts, invoices and documents with (i) annual revenue more than VND1 billion; and (ii) certain volunteer cases (subject to submission of Notification to the tax authority) shall declare VAT under the credit method. The VAT payable under the credit method is calculated by output VAT minus deductible input VAT.

Of note, the VAT credit method can be more beneficial for the business entity that incurs input VAT frequently during its operations given that the business entity is allowed to claim a VAT refund in the event if the input VAT is higher than the output VAT.



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| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. The non-established businesses (eg foreign business individuals and foreign organization) earning Vietnam-sourced income shall subject to Foreign Contractor Tax (FCT), consist of Value Added Tax and CIT. There are three methods FCT declaration applicable to the non-established businesses, including deduction method, direct method and hybrid method (subject to conditions).   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Depending on the selection of FCT declaration method, the non-established businesses may need to appoint a fiscal representative in order to register.   |
| <i>How often do returns have to be submitted?</i>   | VAT returns can be submitted on either monthly or quarterly basic, depending on its annual revenue.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late, a penalty can be imposed.   |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalty on incorrect tax declaration/tax evasion shall be imposed in the event of the tax authority identifying the additional tax liabilities upon the tax audit.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. VAT incurred by overseas businesses cannot be claimed if they are not registered in Vietnam.   |
| <i>Deduction of VAT</i>   | <p>In general, the input VAT is creditable if it meets the following requirements:</p> <ul style="list-style-type: none"> <li>• relevant to business activities</li> <li>• having sufficient legitimate invoice and vouchers</li> <li>• settlement via forms of non-cash payment for transaction more than VND20 million</li> <li>• paying under the registered bank account.</li> </ul> <p>The input VAT is unable to meet the above criteria is not creditable for VAT calculation purpose, such as expense having invoice with wrong information of the business entity (i.e. name, address, tax code, etc.).</p> |

## What is the principal indirect tax?

Value Added Tax (VAT) is an indirect tax applies to products and services used for production, business and consumption in Vietnam; as well as on the duty paid value of imported goods; in which the importer must pay VAT to Customs Authority at the time of importing goods.

There are four applicable VAT rates in Vietnam, comprising of goods not subject to VAT, 0%, 5% and the standard rate of 10%, particularly:

- Standard rate of 10% for most goods and services.
- Reduced rate of 5% generally applies to the provision of essential goods and services, including clean water; fertilizer production; teaching aids; books; medicine and medical equipment;; scientific and technical services; unprocessed foodstuffs; sugar and its by-products; various agricultural products and services; and social housing.
- Zero-rated applies to exported goods and services, including goods and services sold to overseas/ non-tariff areas and consumed outside Vietnam/ in the tariff areas, goods processed for export or in-country export (subject to conditions); construction and installation in overseas and in non-tariff areas; marine and international transportation services.

- Indirect tax exemption applies to certain agricultural products; goods/ services provided by individuals having annual revenue of VND100 million or below; transfer of land use rights; certain insurance services; financial and credit services; certain securities activities; medical services; teaching and training services; transfer of technology, software and software services; imports of machinery; equipment and material which cannot be produced in Vietnam for direct use in science research and technology development activities OR for prospecting, exploration and development of oil and gas fields; goods imported for international non-refundable aid, including from official development aid, foreign donations to government bodies and to individuals; export of unprocessed mineral products.

Under this treatment, no output VAT shall be charged and the input VAT is not creditable, but considered as deductible expenses for CIT purposes.

## Is there a registration limit for the tax?

The current Vietnamese regulations provide two VAT calculation methods, as below:

### VAT direct method:

The VAT direct method applies to business entities trading/crafting gold, silver and gems; business entities with an annual revenue subject to VAT less than VND1 billion; business entities that do not maintain proper books of account and foreign organizations or individuals carrying out business activities in forms not regulated in the Law on Investment; and newly established business entities that do not voluntarily apply the VAT credit method.

The VAT payable under VAT direct method is equivalent to revenue multiply (x) by specific rate, depending on the business activities, including:

- 1% is for the business of 'distribution, supply of goods'
- 3% is for 'the production, transportation, service associated with goods construction including of the material'
- 5% is for 'service, construction exclusive of material'
- 2% is for other business activities.

### VAT credit method:

The VAT credit method applies to business entities maintaining full books of accounts, invoices and documents in accordance with the relevant regulations, including (i) business entities with annual revenue subject to VAT of VND1 billion or more; and (ii) newly established entities that voluntarily to apply this method cases (subject to submission of Notification to the tax authority).

Under the VAT credit method, VAT payable is equivalent to output VAT minus (-) creditable input VAT.

The input VAT is creditable if it meets the following requirements:

- relevant to business activities
- having sufficient legitimate invoice and vouchers
- settlement via forms of non-cash payment for transaction more than VND20 million
- paying under the registered bank account.

Of note, the VAT credit method can be more beneficial for the business entity that incurs input VAT frequently during its operations given that the business

## Does the same registration limit apply to non-established businesses?

The non-established businesses (eg foreign business individuals and foreign organization) earning Vietnam-sourced income shall subject to FCT, consist of VAT and CIT. There are three methods FCT declaration applicable to the non-established businesses as below:

### Deduction method:

This method allows the non-established businesses declaring: (i) VAT under the approach of crediting the input VAT against the output VAT, and (ii) CIT at the declaration of revenue and income similar to the local enterprises' application. Of note, only non-established businesses that meet some criteria, including FC's adoption of Vietnamese Accounting System, are allowed to apply this deduction method.

### Direct method:

Under this method, the non-established business's VAT and CIT will be withheld by the Vietnamese customers at prescribed rates from the payments made to the non-established business. Various FCT rates are regulated under the nature of activities performed, including:

| Industry  | Effective VAT rate | Deemed CIT rate |
|---|--------------------|-----------------|
| Trading: distribution, supply of goods, materials, machinery and equipment in Vietnam | Exempt             | 1%              |
| Services  | 5%                 | 5%              |
| Services together with supply of machinery and equipment                              | 3%                 | 1%              |
| Restaurant, hotel and casino management services                                      | 5%                 | 10%             |
| Construction, installation without supply of materials or machinery, equipment        | 5%                 | 2%              |
| Construction, installation with supply of materials or machinery, equipment           | 3%                 | 2%              |
| Leasing of machinery and equipment  | 5%                 | 5%              |
| Leasing of aircraft, vessels (including components)                                   | Not Specified      | 2%              |
| Transportation  | 3%                 | 2%              |
| Interest  | Exempt             | 5%              |
| Royalties   | Exempt             | 10%             |
| Insurance   | Exempt             | 5%              |
| Re-insurance, commission for reinsurance  | Exempt             | 0.1%            |
| Transfer of securities  | Exempt             | 0.1%            |
| Financial derivatives   | Exempt             | 2%              |
| Manufacturing, other business activities  | 3%                 | 2%              |



**Hybrid method:**

This method is a combination of deduction method and direct method, ie allows the non-established business to declare VAT using creditable approach and CIT using direct method.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

### Does a non-established business need to appoint a fiscal representative in order to register?

Only a non-established business with the selection of FCT deduction method and hybrid method is required to appoint a fiscal representative in order to register; given that under the direct method, the Vietnamese customers shall declare FCT return and withhold the relevant FCT payable from the payment paid to the non-established business for remittance to the state treasury.

### How often do returns have to be submitted?

The business entity with an annual revenue more than VND50 billion is required to file VAT return and pay VAT payable on a monthly basis by the 20th day of the following month. Otherwise, the quarterly basis with the deadline by the 30th day of the following quarter shall be applied (inclusive of the newly established enterprise).

### Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date, namely interest on late payment amounting to 0.05% per day.

### Are any other declarations required?

No.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules, including:

- a penalty on incorrect tax declaration leading to the under-declared VAT liabilities of 20% on the under-declared VAT liabilities
- a penalty on tax evasion from one to three times on the evaded tax liabilities.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Vietnam?

No. VAT incurred by overseas businesses cannot be claimed if they are not registered in Vietnam.

### What information must a VAT invoice show?

The business entities may use pre-printed invoices, self-printed invoices or electronic invoices to declare their VAT liability. There are stipulated items that must be included and strictly reflected onto the invoice:

- an invoice number which is unique and sequential. The business entities are required to register/ notify the invoice issuance to the tax authority
- the seller's name, address and tax code
- the invoice date
- the customer's name, address and tax code
- a description sufficient to identify the goods or services supplied to the customer
- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the rate of any cash discount
- the total amount payable in VND, only certain business activities are allowed to issue invoice in foreign currency
- the signature and seal of the seller as well as the signature of the buyer.

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# Indirect tax overview – Europe

Switzerland has extended Swiss VAT registration requirements for non-established businesses. Non-established businesses providing construction work, installation work or mere work on goods, even if the goods are not altered, may now have to register for VAT in Switzerland.

The Union Customs Code comes into force on 1 May 2016, replacing the Community Customs Code. This EU-wide legislation will impact businesses involved in global trade in goods.

EU member states continue to introduce SAF-T requirements. With effect 1 July 2016, Poland will introduce a SAF-T requirement, following Austria, Portugal, France and Slovenia who already have similar requirements in place.

## Europe

### Albania

Standard rate: 20% Other: 0%

### Armenia

Standard rate: 20% Other: 0%

### Austria

Standard rate: 20% Other: 13%, 10%

### Belgium

Standard rate: 21% Other: 12%, 6%, 0%

### Channel Islands – Jersey

Standard rate: 5% Other: 0%

### Cyprus

Standard rate: 19% Other: 9%, 5%, 0%

### Czech Republic

Standard rate: 21% Other: 15%, 10%

### Denmark

Standard rate: 25% Other: 5%, 0%

### Estonia

Standard rate: 20% Other: 9%

### Finland

Standard rate: 24% Other: 14%, 10%, 0%

### France (Corsica<sup>1</sup> and Overseas territories<sup>2</sup>)

Standard rate: 20% (20%<sup>1</sup> and 8.5%<sup>2</sup>)  
Other: 10%, 5.5%, 2.1% (13%, 10%, 2.1%, 0.9%)<sup>1</sup>,  
(2.1%, 1.75%, 1.05%)<sup>2</sup>

### Germany

Standard rate: 19% Other: 7%

### Greece

Standard rate: 23% Other: 13%, 6%

### Hungary

Standard rate: 27% Other: 18%, 5%

### Iceland

Standard rate: 24% Other: 11%, 0%

### Ireland

Standard rate: 23% Other: 13.5%, 9%, 4.8%, 0%

### Italy

Standard rate: 22% Other: 10%, 5%, 4%, 0%

### Kazakhstan

Standard rate: 12% Other: 0%

### Latvia

Standard rate: 21% Other: 12%, 0%

### Liechtenstein

Standard rate: 8% Other: 3.8%, 2.5%

### Luxembourg

Standard rate: 17% Other: 14%, 8%, 3%

### Macedonia

Standard rate: 18% Other: 5%

### Malta

Standard rate: 18% Other: 7%, 5%, 0%

### The Netherlands

Standard rate: 21% Other: 6%, 0%

### Poland

Standard rate: 23% Other: 8%, 5%

### Portugal (Madeira<sup>1</sup> and Azores<sup>2</sup>)

Standard rate: 23% (22%<sup>1</sup> and 18%<sup>2</sup>)  
Other: 13% (12%<sup>1</sup> and 9%<sup>2</sup>), 6% (5%<sup>1</sup> and 4%<sup>2</sup>)

### Romania

Standard rate: 20% Other: 9%, 5%

### Russia

Standard rate: 18% Other: 10%, 0%

### Serbia

Standard rate: 20% Other: 10%, 0%

### Slovakia

Standard rate: 20% Other: 10%

### Spain

Standard rate: 21% Other: 10%, 4%

### Sweden

Standard rate: 25% Other: 12%, 6%

### Switzerland

Standard rate: 8% Other: 3.8%, 2.5%

### Turkey

Standard rate: 18% Other: 8%, 1%

### Ukraine

Standard rate: 20% Other: 7%, 0%

### United Kingdom

Standard rate: 20% Other: 5%, 0%



# Republic of Albania

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- Standard rate of 20% for most goods and services.
- Zero-rated and exempt – exports of goods, international transportation services and related supplies, as well as supplies of goods and services relating to maritime activities, are zero-rated; there is a list of exempt supplies of goods and services.

*Are there any confirmed or anticipated changes to these rates?*

No any recent change is confirmed.

*What is the principal indirect tax?*

Albanian Value Added Tax (VAT) is the principal indirect tax in Albania. It is applied at each stage of production and distribution process of a good or service. VAT generally 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.

*Is there a registration limit for the tax?*

Yes. It relates to the annual turnover of taxable transactions in Albania, and once the limit has (or will be) reached it is necessary to register. Persons involved in import or export activities must register for VAT regardless of the amount of turnover.

*Does the same registration limit apply to non-established businesses?*

No. There is no registration limit for businesses that are not established in Albania and they will need to register as soon as they start to make taxable transactions.

*Does a non-established person need to appoint a fiscal representative in order to register?*

In certain circumstances, a non-established person may be directed by Albanian tax authority to appoint a fiscal representative.

*How often do returns have to be submitted?*

The tax period is a calendar month.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.

*Are any other declarations required?*

No. Monthly VAT returns are the only one declaration required.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

No. Non-established businesses may not obtain refunds of VAT incurred in Albania.



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Albania. Value added tax (VAT) shall apply to:

- the taxable supplies of goods and services provided by a person who carries on business activities in the territory of the Republic of Albania
- the imports of goods into the territory of the Republic of Albania.

A VAT taxable event is to be considered at the time and place of supply for goods or service.

### 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.

### Place of supply

The place of supply of goods is the place where the goods are delivered or made available by suppliers. The location of a supply of services is the place where the service actually occurs and is carried out by the supplier. A supply of services relating to immovable property is performed where the immovable property is located, a supply of services of transport, or services that are included in transport, are performed where the transport occurs.

### Application of 'Reverse Charge System' on the import of services

For taxable services supplied by a supplier that does not have a place of business activity in Albania, and where services do not fall under the categories of international transportation and are not related to immovable property, the customer (beneficiary of the services) is considered to have supplied the services to itself in the course of its business activity. In such cases, the reverse charge system must be applied by the customer.

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 (including any VAT paid at import) allowed as a deduction. If the input VAT is higher than the output, then the difference is a VAT credit which can be carried forward to subsequent months. Otherwise if the output VAT is higher than the input VAT, the difference represents VAT payable to the tax authority.

### VAT rates

The VAT standard rate is 20%.

Exports of goods, international transport and services relating to maritime activities and supplies relating to international transport are zero-rated. There are exempt supplies of goods and services stipulated in the Albanian VAT law. The list below gives examples of exempt supplies of goods and services, (the lists are not exhaustive):

- supply and rent of land and buildings
- financial services
- postal services
- education services
- hydrocarbon exploration operations (only for the research phase)
- printing and sale of publications
- media advertising
- betting, lotteries and gambling
- international services
- supply of iron and cement, to the construction of hydropower entities, which, under the respective agreement, use as raw material for the construction of hydropower plants
- the supply of medicines and medical services
- import of machinery and equipment, in order to meet contracts and investments over 50 million ALL (or approximately €359,000)
- import of machinery and equipment, in order to achieve the investment contracts in the active processing and agribusiness
- insurance and re-insurance services
- supply of organs, blood and human milk.

Taxpayers who carry out VAT activities as well as VAT exempt activities, can credit only that portion of their input that corresponded to the VAT subject activities.

Most goods imported into the Albania from outside are subject to VAT. The tax will have to be paid by the importer at the time of importation. The taxable amount of imported goods includes transportation and insurance costs, import costs and any applicable taxes, duties or tariffs.

Input VAT on the certain supplies is not considered deductible for VAT purposes.

### 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. For projects with an investment implementation phase of longer than 12 months, deferral of VAT is extended on fulfilment of requirements set out by the Ministry of Finance of Albania.

### Is there a registration limit for the tax?

VAT taxable persons are all individuals and legal entities making taxable supplies and having an annual turnover in excess of ALL 5 million, in such case, the registration for VAT purposes is required, except for the supply of professional services, for which the VAT registration is required regardless the annual turnover. For individuals and legal entities that operate in the import/export sector it is mandatory to be registered, notwithstanding the annual turnover.

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

The Council of Ministers revises the minimum limit when it deems necessary, taking into account inflation or economic and administrative factors and replaces it with a new minimum threshold for VAT registration purposes.

Any VAT registration covers all economic activities of the person registered. The Albanian VAT law does not allow group registration.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

### Does the same registration limit apply to non-established businesses?

A 'non-established business' is a business that does not have a fixed establishment in Albania.

A non-established business that makes VAT taxable supplies of goods or services in Albania must appoint a VAT representative to register for VAT, to account for Albanian VAT on the supplies. The VAT representative must be resident in Albania.

A non-resident taxable person is obliged to register through a tax representative to pay VAT in Albania, regardless of whether the value of the supply of service exceeds or no minimum limit for VAT registration.

### Does a non-established business need to appoint a fiscal representative in order to register?

When a person is a taxable person for the purposes of VAT law, but does not have a place of business, or in the case of an individual, a usual place of residence in Albania, the Ministry of Finance has the right to ask him to appoint another person as his tax representative.

The VAT representative must be resident in Albania and may act on behalf of the taxable person for all purposes related to VAT and is directly responsible for compliance with all VAT obligations. In case of a failure to appoint a tax representative, the obligations and penalties would be paid by the domestic beneficiary of the supply.

The tax authority in Albania may direct a person to appoint a VAT representative to act on his behalf for VAT purposes where the person:

- is a taxable person or makes taxable supplies in Albania
- is not established and does not have a 'fixed establishment' in Albania
- in the case of an individual, he does not have his 'usual place of residence' in Albania.

Example: Services related to immovable properties, a non-resident person provides services related to immovable property in Albania and does not have a place of business in Albania, has to register for VAT purposes (through a fiscal representative) regardless of the value of the services provided.

### How often do returns have to be submitted?

The tax period is a calendar month. Purchase and sales books must be submitted monthly by the tenth 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 a VAT payment is the same as the deadline for the filing of VAT returns.

### Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date. Each late tax filing is subject to a penalty in total amount 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.



## Are any other declarations required?

Not applicable, monthly VAT returns are the only declaration required.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Inaccurate 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. 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.

A taxpayer, who issues an inaccurate VAT fiscal invoice, decreasing VAT liability, or increasing the amount to be reimbursed, is subject to a fine equal to 50% of the reduction amount and additional taxes with interest calculated in accordance with the provisions of the tax laws. A taxpayer, who issues an inaccurate VAT fiscal invoice but has no effect on the calculation and payment of taxes, will also be punished with a fine. Criminal proceedings may be brought in the case of more serious matters, 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.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Albania?

No, it is not possible to reclaim the VAT incurred by overseas businesses if they are not registered in Albania. Non-established businesses may not obtain refunds of VAT incurred in Albania.

## What information must a VAT invoice show?

The general director of the tax authority approves the VAT invoice format, which is printed and distributed by the tax authorities or by authorised private entities. VAT fiscal invoice is compiled in the form prescribed by the Minister of Finance, and includes:

- the seller's name, address and VAT registration number
- the customer's name, address and VAT registration number
- the transporter's name, address and VAT registration number as well as the license plate number of the vehicle and the time of supply
- the invoice date
- pre-serial number
- the ordinal number
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged (expressed in ALL).

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT
- the total amount payable, with VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

A VAT invoice is issued with no less than three copies and is distributed as follows:

- page 1 for the 'buyer'
- page 2 and 3 for the 'seller' and the 'transporter'.

At the end, the invoice is marked with the name, surname, signature and seal of the seller, the name, surname and signature of the buyer and where there is a transporter, their name, surname and signature.

For sales made to a customer (non-commercial individual) the VAT invoice issued by the seller is marked name, surname and address of the buyer.

The general director of the tax authority has the right to allow the use of a VAT electronic fiscal invoice other those pre-printed when the taxable person can demonstrate that his registration system is computerised and capable of producing fiscal invoices with a unique serial number for each taxable transaction and that there is a significant number of customers.

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# Armenia

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 20% applies for most goods and services.</li> <li>• Zero rate usually applies for the export of goods and services.</li> <li>• Exempt supply mainly applies to financial transactions.</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | Not applicable.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is an indirect tax, which is charged on the final consumption of certain goods and services. It is collected at every stage of production and distribution. In case of import it may be collected at the border.  |
| <i>Is there a registration limit for the tax?</i>   | New registered legal entities and subdivisions (branches and representative offices) of foreign legal entities automatically become VAT taxpayers. Turnover tax payers become VAT taxpayers when their taxable turnover for the past calendar year exceeds a threshold of 115 million Armenian Dram <sup>1</sup> (AMD). |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Not applicable.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Not applicable.   |
| <i>How often do returns have to be submitted?</i>   | As a general rule, VAT returns are submitted quarterly. Taxpayers whose revenue for the previous year exceeded AMD 100 million should submit their tax return on monthly basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late then penalties and a fine will be imposed.  |
| <i>Are any other declarations required?</i>   | No.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. The law on VAT defines the conditions under which penalties will be applied.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Not applicable.   |



<sup>1</sup> The exchange rate defined by Central Bank of Armenia as of 08 December 2015, 1 USD = 484.6 AMD

## What is the principal indirect tax?

VAT is a type of indirect tax, which is charged on the final consumption of certain goods and services in the home market but is collected at every stage of production and distribution. Liability for VAT rests with the person supplying the taxable goods or services. The final consumer bears the actual burden of the tax and pays on the value added to the goods or services.

Armenia uses the input-output model. An individual entrepreneur or legal entity (tax agent) accounts for output VAT after deducting VAT paid on their inputs.

Usually the following transactions are VAT taxable:

- the supply of goods and services where the place of supply is in Armenia (including free of charge or partly free of charge supply)
- the importation of goods.

Under the local customs legislation, individuals should pay VAT when the amount or quantity of imported goods exceeds limits defined by legislation.

Services supplied in Armenia by non-residents that are not registered in Armenia are subject to reverse charge VAT.

## Is there a registration limit for the tax?

New registered taxpayers automatically become VAT payable. Turnover tax payers become VAT taxpayers when their taxable turnover exceeds AMD 115 million.

There are some peculiarities for becoming VAT payable irrespective of this threshold, this is when:

- the taxpayer imports or manufactures excise tax taxable goods
- the 20% or more of the charter capital of the company belongs to the other company or entrepreneur (this applies to both parties)
- the 20% or more of the charter capital of the company belongs to an individual having 20% or more participation in the charter capital of another company (this applies to both parties)
- the parties are determined as a related parties.

The Turnover tax payers whose turnover is less than AMD 115 million may voluntarily become a VAT payer by applying to the tax authorities.

## Does the same registration limit apply to non-established businesses?

Not applicable.

## Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

## How often do returns have to be submitted?

As a general rule, VAT returns are submitted quarterly. The taxpayers whose revenue for the previous year exceeded AMD 100 million should submit their tax return on monthly basis.

A VAT return should be submitted within 20 days following the end of the reporting period.

## Are penalties imposed for the late submission of returns/payment of tax?

The legislation defines the following types of penalties where the VAT return submission has been delayed:

- a penalty of AMD 10,000 to 20,000 for the delayed tax return submission
- a penalty at the rate of 5% of the outstanding VAT amount will be imposed per each 15 day period after the deadline (the penalty amount should not exceed the outstanding VAT amount).

In cases of late payment of VAT fines, interest will be calculated at the rate of 0.15% for each day of delay.

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

If during the tax audit the tax authorities identify that the tax liability presented in the taxpayer's return is understated, a penalty at the rate of 50% will be imposed of the assessed tax.

A penalty at double rate of the total amount of the VAT invoice (including the VAT amount), but no less than AMD 5 million will be imposed for issuing tax invoices on illegally acquired or copied forms.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Armenia?

Not applicable.

## What information must a VAT invoice show?

The VAT invoice should include the following information:

- the invoice number and date
- the seller's name and address and VAT registration number
- the customer's name and address
- denomination and quantity of goods, or the type and volume of services
- the prices of goods or services as well as the total value (excluding VAT)
- the VAT amount (as a separate line).

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# Austria

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 20% for most goods and services.</li> <li>• Reduced rate of 13 % for example for living animals, works of art or activities of artists.</li> <li>• Reduced rate of 10% for example for food and beverages or rent for dwellings.</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | The reduced rate of 13% was imposed by 1 January 2016.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Austria. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>   | Yes. It relates to the annual turnover of taxable transactions in Austria, and once the limit has (or will be) reached it is necessary to register.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. There is no registration limit for businesses that are not established in Austria and they will need to register as soon as they start to make taxable transactions. If the foreign entrepreneur makes no supplies in Austria or makes only supplies for which the tax liability is shifted to the recipient of the supply, then he may not be obliged to file a VAT return under certain conditions. |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In certain circumstances, a non-established person may have to appoint a fiscal representative in Austria.  |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit VAT returns on a monthly basis.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.   |
| <i>Are any other declarations required?</i>   | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the European Union (EU). Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.  |



## What is the principal indirect tax?

VAT is the main type of indirect taxation in Austria and in other EU countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

Even if an entrepreneur conducts his business from abroad, certain transactions may be taxable in Austria (notably the supply of goods and services, the intra-EU acquisition of goods, imports). Where the supply of goods occurs in Austria or the supply of services is made in Austria (ie the place of supply of goods or services is in Austria) such supply is, in principle, taxable in Austria as well. The standard VAT rate is 20%, the reduced rates are 13% and 10%.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Austria from outside the EU are subject to import VAT. The tax will have to be paid by the importer at the time of the customs clearance. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Other indirect taxes

In addition to VAT, a number of other indirect taxes, both federal and local, are levied on certain transactions with specific products. An excise duty is levied on mineral oil, tobacco, alcohol and alcoholic beverages.

### Means of transport

Furthermore, a turnover tax (Normverbrauchsabgabe) is levied on the supply of cars and motorcycles, mainly designed for the transport of passengers, which have not been licensed for general traffic. The taxable event is defined as either the supply to the final consumer or the first licensing of the passenger car for general traffic. A number of exemptions are provided for (eg export supplies). The tax rate depends on the volume of CO<sub>2</sub> emissions.

Other transactions subject to the following indirect taxes are in principle exempt from VAT:

- the immovable property acquisition tax (Grunderwerbsteuer), which is levied on the transfer of immovable property in Austria. The normal tax rate amounts to 3.5%, with lower rates applying to donations and heritages
- insurance tax (Versicherungssteuer) on the consideration for insurance protection on the basis of an insurance contract.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course business must register for VAT if the value of its taxable supplies in Austria exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities is very different.

Two or more corporate bodies can be registered as a VAT group (Organschaft):

- each of the corporate bodies needs to be established, or has a fixed establishment in Austria
- any legal entity that is controlled by a third party may qualify as an integrated company. A legal entity is not considered independent if that legal entity and its decisions are controlled or determined by the will of another entrepreneur to an extent that the legal entity lacks the capacity of self-determination (financial, economic and organisational integration).

If a fiscal unity is established, the business activity of the integrated company is attributed to the parent company: the business of the integrated company and the parent company form one single enterprise for VAT purposes. The VAT returns filed by the parent company also comprise of the enterprise of the integrated company and its taxable supplies. 'Supplies' between the integrated company and the parent company and vice versa are not taxable, ie they are outside the scope of VAT.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of a VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

### Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses who are not established in Austria. For businesses making taxable supplies in Austria, they will need to register for VAT as soon as they commence trading in Austria, irrespective of the level of turnover.

If the foreign business makes no supplies in Austria or only makes supplies for which the tax liability is shifted to the recipient of the supply, then they are obliged to file a VAT return in cases where:

- they owe a tax as the recipient of the supply
- they owe a tax on the basis of invoicing under Sec. 11 (12) and (14) of the VAT Act
- they are requested to file by the tax office
- due to the reverse-charge system.

Registration for VAT in Austria may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. Austria has adopted an annual threshold of €35,000.

Distance sales from another EU country to non-taxable persons in Austria will be subject to VAT at the appropriate rate in the supplier's country. However, once the value of those distance sales to Austria exceeds the Austrian threshold of €35,000:

- the supplier becomes liable to register for VAT in Austria
- Austria becomes the place of supply
- any further sales to customers in Austria are subject to Austrian VAT.

Suppliers can choose Austria as the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Electronically supplied services and digital services to private consumers resident in Austria are taxable where the supplier is established.

### Does a non-established business need to appoint a fiscal representative in order to register?

A person needs to appoint a VAT representative in Austria to act on his behalf for VAT purposes if:

- the person is established in a country or territory which is not an EU country (or part of such a country)
- it appears to the Austrian tax authority that there is no provision for mutual assistance similar to that which provided between Austria and other EU countries
- the person makes deliveries or services to non-taxable persons
- the person makes intra-community deliveries or acquisitions.

## How often do returns have to be submitted?

VAT returns normally cover an accounting period of one calendar month (pre-declaration period). The period amounts to the quarter of a calendar year (three calendar months) if the entrepreneur effected supplies of goods and services and self-supplies the basis of assessment of which did not exceed €100,000 in the preceding calendar year. It is, however, possible to opt for a monthly pre-declaration period for the entire assessment period if the entrepreneur files a pre-declaration in time for the first calendar month.

The entrepreneur must file a pre-declaration of VAT with the competent tax office by the 15th day (due date) of the calendar month which is the second month following the end of the pre-declaration period (calendar month) for the levying of VAT in respect of that entrepreneur. The pre-declaration is treated as a tax return. The entrepreneur must effect payment of VAT as assessed for the purposes of the pre-declaration on the due date.

The obligation to file a pre-declaration is waived if:

- the entrepreneur's turnover of the preceding year did not exceed €30,000 and the prepayment calculated is paid by the due date or if no prepayment is due
- the entrepreneur effects only tax-exempt supplies and no prepayment or input tax surplus arises for the respective pre-declaration period.

However, a pre-declaration must be filed if the entrepreneur is instructed by the tax office to do so.

The entrepreneur must effect the prepayment within the time limit prescribed for the filing of the pre-declaration.

## Are penalties imposed for the late submission of returns/payment of tax?

If the pre-payment is not effected on time, a penalty for late payment (Säumniszuschlag) amounting to 2% of the VAT not paid on time will be assessed.

If VAT returns are not filed in time and this failure is not excusable, the tax authority may impose a penalty (Verspätungszuschlag) amounting up to 10% of the assessed VAT.

## Are any other declarations required?

Businesses that are registered for VAT in Austria, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

Generally, the ESLs must be submitted each calendar month. Only if the entrepreneur files quarterly (instead of monthly) VAT returns the ESLs must be submitted quarterly as well.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU– state is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where a business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Austria?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

### VAT-refund for foreign entrepreneurs who are established within the EU

Foreign entrepreneurs who are established within the EU, but who have neither their registered office nor a fixed establishment within the Austrian territory may claim their input VAT in electronic form via the national electronic system of the member state of fixed establishment (Art 7 of the directive 2008/9/EC) if they:

- make no taxable transactions in Austria
- effect only tax-exempt transport of goods or only tax-exempt transport of passengers by ship or aircraft
- make only supplies for which the tax liability is shifted to the recipient of the supply (supplies under the reverse charge system according to the second sentence of Sec.19 (1))

The amount refundable is determined by the deduction rules that apply in the country making the refund.

The refund period must not cover more than one calendar year or less than three calendar months (unless it is covering the remainder of a calendar year). The claim has to be made by 30 September of the year following that in which the VAT was incurred.

### **VAT-refund for foreign entrepreneurs who are not established within the EU**

Foreign entrepreneurs who are not established within the EU and have neither their registered office nor a fixed establishment within the Austrian territory, may claim their input VAT by completing the forms as noted below and enclosing the original invoices and imports documents for which the refund is requested in original and forwarding them to the Austrian tax office Graz-Stadt if:

- they make no taxable transactions in Austria
- they effect only tax-exempt transport of goods or only tax-exempt transport of passengers by ship or aircraft
- they make only supplies for which the tax liability is shifted to the recipient of the supply (supplies under the reverse charge system according to the second sentence of Sec.19 (1))
- they render only electrical services from a third country to non-entrepreneurs and have applied the special scheme under TITLE XII Chapter 6 of the VAT Directive 2006/112/EC.

The claim form, the certificate of entrepreneurial status, the invoices and import documents must be sent as originals to the tax office before the 30 June the following year.

The amount to be refunded must at least be €400. This does not apply if the refund period is the calendar year or the last period of a calendar year. For these refund periods the amount to be refunded must be at least €50.

### **What information must a VAT invoice show?**

If the invoice does not contain all of the following data, it will be insufficient for the credit of input tax:

- the name and the address of the entrepreneur performing the supply of goods or services
- the name and the address of the customer (recipient of the supply of goods or services)
- the VAT identification number of the recipient provided that the consideration exceeds €10,000, the supplying entrepreneur has place of residence or fixed establishment in Austria and the recipient is an entrepreneur
- the amount and the commercially used description or name of the supplied goods and/or the type and the scope of the supplied services
- the date of the supply of goods or services or the period over which the supply of services extends
- the consideration for the supply, the applicable VAT rate and in the case of an exemption, a reference that the supply is subject to an exemption rule
- the amount of VAT payable on the basis of the consideration in euros
- the date of the issuance of the invoice
- a consecutive number in one or more numerical sequences which is assigned only once for the purpose of identifying the invoice; foreign entrepreneurs need their own number range for supplies in Austria
- the VAT identification number of the issuer of the invoice; the obligation to indicate the VAT identification number exists only where the entrepreneur makes supplies of goods or services which entitle to deduction of input VAT.

Where an invoice does not exceed €150, the name and address of the recipient is not a prerequisite and it is sufficient for the total amount (consideration including VAT) and the rate of VAT to be referred to separately.

VAT invoices can be issued, received and stored in an electronic format and there is no need to inform the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Belgium

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 21% for most goods and services.
- Reduced rate of 12% for some goods and services including restaurant and catering services (drinks excluded), coals and solid fuels derived from coal, phytopharmaceutical products, margarine, tyres for agricultural machines, housing as part of social policy.
- Reduced rate of 6% applies for most food and drinks, pharmaceutical products and medical aids, printed newspapers, magazines and books (including illustrated ones), original works of art, automobiles for disabled persons, renovation works with respect to old buildings, renting of furnished lodgings with or without breakfast by hotel operators, the granting of the right to enter institutes for cultural, sport or entertainment purposes (eg concert tickets).
- Zero rate applies to a very limited number of goods (under certain conditions: newspapers and magazines appearing at least 48 times a year, scrap and recycling products).

### *Are there any confirmed or anticipated changes to these rates?*

Renovation works with respect to old buildings: as from 1 January 2016 building should be older than 10 years to benefit from reduced rate of 6%.

### *What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in the Belgium. It is a tax on consumer expenditure and is collected on business transactions, imports and intra-EU transfer of own goods (eg stock transfer).

### *Is there a registration limit for the tax?*

In principle, no. However, for companies established in Belgium there is a special regime, the so-called small enterprises regime. Small enterprises whose annual turnover is below €15,000 (excl. VAT) can benefit from a VAT exemption on the performed supplies of goods and services (with no VAT deduction right). An increase of this threshold to €25,000 has been announced to be implemented by 1 January 2016 (with reservation of effective implementation in legislation).

### *Does the same registration limit apply to non-established businesses?*

No. In principle there is no registration limit for businesses that are not established in Belgium and they will need to register as soon as they start to make taxable transactions. However, for occasional/one-off transactions a simplified procedure exists with a licence for non-registration and filing of a special (one-off) VAT return. For businesses involved with 'distance sales' made to Belgian consumers (B2C) a threshold of €35,000 (excl. VAT) applies (eg for mail order and internet sales).

### *Does a non-established person need to appoint a fiscal representative in order to register?*

Only companies established outside the EU are obliged to appoint a responsible (fiscal) representative. EU companies can choose between a direct VAT identification and appointing a responsible (fiscal) representative.



*How often do returns have to be submitted?*

In principle, a monthly VAT return has to be submitted. However, if the annual turnover realized in Belgium does not exceed €2.5 million (€250,000 for specific business sector), then quarterly VAT returns may be filed (by option). If in the course of a quarter, the amount of the intra-community supplies exceeds €50,000, a monthly VAT return and ESL return has to be submitted.

*Are penalties imposed for the late submission of returns/payment of tax?*

If a VAT return is submitted late then a penalty of between €100 and €1,000 can be imposed. For late payment, a VAT interest can be charged at 0.8% per month as well as a 20% VAT penalty. If several VAT returns are outstanding a special VAT account can be created by the Belgian VAT authorities. In the latter case, both the 20% VAT penalty and the interest for late payment will be claimed.

*Are any other declarations required?*

For EU-trade: additional declarations have to be submitted in respect of certain supplies made to taxable customers VAT registered in another EU country (so-called 'ESL return'). In addition, a statistical declaration will have to be submitted if certain thresholds are met for arrival of goods (so-called intrastat arrival) or dispatch (so-called intrastat dispatch).

For non-EU trade: declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU (export or import declaration).

For local Belgian trade: an additional Belgian declaration has to be submitted for local sales in Belgium invoiced to a taxable customer with a Belgian VAT number (the so-called yearly Belgian sales listing).

*Are penalties imposed in other circumstances?*

For a range of errors and omissions resulting in non-compliance with the VAT rules, administrative VAT penalties can be imposed. There are two types of VAT penalties:

1. (reduced) proportional penalties.
2. lump-sum penalties.

In addition to the penalties, an interest for late payment is charged at 0.8% per month. In cases of spontaneous VAT correction (ie prior to any intervention/question from any tax authority) no proportional penalty will be due, but only the lump-sum penalties. In principle, the non-reduced proportional penalty amounts to 200% of the VAT (eg non-payment of VAT due, irregular recovery of VAT, non-issue of sales invoices or issue of incorrect sales invoices, incorrect import documents). The lump-sum penalties are generally between €50 and €5,000, eg late filing of the VAT return. Under certain conditions, reduced proportional penalties are foreseen in the VAT legislation.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

In certain circumstances and subject to certain conditions (ie no taxable turnover in Belgium) a VAT refund request can be submitted by both EU (procedure under Directive 2008/09/EC) and non-EU businesses (13th Directive 86/560/EEC). For both EU and non-EU businesses the request should be submitted before 30 September of the year following the year of the expenses. In Belgium it is not required that the concerned non-EU country would allow a similar VAT refund of incurred 'non-EU VAT' for a Belgian company (no reciprocity condition).

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Belgium and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods and certain services entering or located in Belgium. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply of goods or services.

A transaction is within the scope of Belgium VAT and should be reported in the Belgian VAT return if the following conditions are met:

- it concerns one of the four taxable transactions: supply of goods, supply of services, intra-community supply, importation. A supply of goods is defined as the transfer of the power to dispose over a good pursuant to a contract for consideration. A supply of services is defined as any transaction which is not considered as a supply of goods. Intra-community supply is a supply of goods with transportation of the goods to another EU member state. Importation of goods means that the non-EU goods are brought in 'free circulation' and they can then be released for use in the home market
- it takes place in Belgium
- it is made by a taxable person
- it is made in the course or furtherance of any business carried on by that person or entity.

A business registered for the VAT will charge VAT (output VAT) on its sales (unless payment of the Belgian VAT is shifted to the co-contractant) and will incur VAT (input VAT) on its purchases (including any VAT paid at importation). The difference between the output VAT and the deductible input VAT in each accounting period (ie month or quarter) will result in either a:

- a VAT amount payable by the business to the VAT authority
- VAT credit amount, for which a refund can be claimed at the end of the quarter
- zero balance (eg only incoming transactions for which the VAT should be self-accounted for and only VAT exempt outgoing transactions).

There are four rates of VAT that are applied to goods and services in Belgium; the standard rate (21%), the reduced rate (6%), intermediate rate (12%) and a zero rate. Also a range of VAT exemptions apply, some with a VAT deduction right (such as export, intra-community supplies) and some with no VAT deduction right (such as financial and insurance services, medical services, rent of real estate (with exceptions), cultural and sport related services). Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Belgium from outside the EU are subject to VAT. The import VAT will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the VAT via the Belgian VAT return (subject to certain rules). Under certain conditions an import VAT deferral licence (so-called ET 14.000 licence) can be requested. This basically means that the import VAT due is to be declared by the importer under a 'self-assessment' scheme: the VAT payable and deductible VAT will be mentioned in the same Belgian VAT return. This system avoids pre-financing of the Belgian VAT by the importer.

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is usually not recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any customs duty.

## Is there a registration limit for the tax?

In Belgium there is no registration limit for VAT. As such a 'person' who either makes or intends to make taxable supplies of goods or services in the framework of a business activity must register for Belgian VAT purposes. For occasional/one-off transactions a simplified procedure exists with licence for non-registration and filing of a special (one-off) VAT return. In such cases, no Belgian VAT number will be assigned and Belgian input VAT will be recoverable via the special (one-off or few) VAT return.

However, for companies established in Belgium there is a special regime, the so-called small enterprises regime. Small enterprises whose annual turnover is below €15,000 (excl. VAT) can benefit from a VAT exemption on the performed supply of goods and services (with no VAT deduction right). The Belgian tax authorities have announced an increase of this threshold to €25,000 from 1 January 2016 (this has not yet been implemented in the legislation).

A lump-sum penalty may be imposed by the tax authority if a business fails to register at the correct time, as well as lump-sum penalties per VAT returns, yearly sales listing and intra-community supplies not submitted for the related period.

For these purposes, a 'person' includes any legal entity, also non-profit organisations which meet the other conditions for being regarded as acting in a business capacity are subject to VAT. Two or more corporate bodies can be registered together as a VAT group if:

- each of the bodies is established, or has a fixed establishment, in Belgium
- they satisfy the three 'control and links' test, i.e. financial, organisational and economical link
- all bodies should qualify as VAT taxable persons. One single VAT return should be submitted for the VAT group.

A corporate body cannot be a member of more than one VAT group at a time. The main advantage of VAT group registration is that in principle any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This results in advantages of (1) VAT optimised structuring for immovable property within the group, (2) avoidance of (double) VAT deduction limitation, (3) optimising of VAT pre-financing and (4) avoidance of VAT risk for intra-group transactions. There are also some disadvantages, for example, all VAT group members (including former members) are jointly and severally liable for the VAT debt of the group during the period of their membership. Consequently, any decision on whether a VAT group is opportune should be taken with care.

## Does the same registration limit apply to non-established businesses?

All non-established businesses will need to register for VAT as soon as they commence trading in Belgium, irrespective of the level of turnover (except for distance selling).

For occasional/one-off transactions a simplified procedure exists with licence for non-registration and filing of a special (one-off) VAT return. In such case no Belgian VAT number will be assigned and Belgian input VAT will be recoverable via the special (one-off or few) VAT return.

In some cases a special registration procedure can be applied for organisers of events such as conferences in Belgium. One of the conditions to apply this special procedure is that the Belgian turnover can not be more than €200.000 on a yearly basis. In such case, special returns will have to be filed to pay the VAT due and deduct the incoming VAT.

Registration for VAT in Belgium may also be required where a non-established EU business is involved with distance selling.

Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a non-taxable customer in another EU country who is not (liable to be) VAT registered. Non-taxable customers include private individuals and businesses and other organisations that are not registered for VAT (either because of their size or the fact that they are exempt from having to register due to the nature of their activities). Under a certain threshold these distance sales will be subject to VAT at the appropriate rate in the suppliers country. Each EU country has the option of applying a distance selling threshold of either €35,000 (excl. VAT) or €100,000 (excl. VAT) per calendar year, or the equivalent in its own currency. Belgium has adopted an annual threshold of €35,000 (excl. VAT). Suppliers can opt to make Belgium the place of supply before the threshold is reached (by means of voluntary VAT registration). In any case, once the value of those distance sales to Belgium exceeds Belgian threshold:

- the supplier is obliged to register for VAT in Belgium
- the place of supply is Belgium
- any further sales to non-taxable customers in Belgium are subject to Belgian VAT.

## Does a non-established business need to appoint a fiscal representative in order to register?

Foreign companies that perform taxable transactions in Belgium in principle need to obtain a Belgian VAT number. In principle an individual VAT number is required. In that respect, EU companies can choose between a direct VAT identification and appointing an fiscal representative. Non-EU companies are obliged to appoint an fiscal representative.

For certain limited transactions instead of requesting an individual VAT number the Belgian VAT reporting can be done under a special global VAT registration number (BE 0796.5 or BE 0796.6) assigned to a global fiscal representative. This is the case for example for:

- importation followed by a local supply of the same (untreated) goods
- non-community goods sold under a VAT warehouse regime.

Under this system the global VAT representative will submit a single VAT return for multiple taxable persons.

For occasional/one-off transactions a simplified procedure exist with licence for non-registration and filing of a special (one-off or ew) VAT return (see above).

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in Belgium?

With effect of 1 January, 2015, Article 21bis § 2, 9° of the Belgian VAT-Code was amended in line with article 5 of Directive 2008/8/EC. The practical implementation of the MOSS-regime is set forth in Administrative Decision ET 126.947 dd 22 December 2014.

The place of supply rules for electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier is established to the Member State of the consumer. This Member State determines amongst others the applicable VAT rate.

According to the new rules, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State.



A taxable person can operate MOSS in Belgium in following cases: (1) Taxable person with head office in Belgium; (2) Taxable person with head office outside EU, but with permanent establishments in EU including Belgium; (3) Taxable person with head office outside EU, without permanent establishment in EU.

The MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services are established.

### How often do returns have to be submitted?

In principle, a monthly VAT return has to be submitted. However, if the annual turnover realised in Belgium does not exceed €2.5 million quarterly VAT returns may be filed (option). At the moment that the amount of intra-community supplies of goods exceeds the threshold of €50,000 per quarter, monthly ESLs and monthly VAT returns have to be submitted.

For companies trading in certain products a monthly VAT return is obligatory if the annual turnover is more than €250,000 (ie energy products, mobile telephones and computers and their peripherals, accessories and components, as well as land vehicles).

All VAT returns have to be submitted within 20 days after the end of the relevant accounting period (month or quarter), together with any VAT amount due. Where VAT recoverable exceeds VAT payable, a refund of VAT will, in principle, will be by the VAT authorities on a quarterly basis (a special box is to be ticked in the VAT return).

Businesses that are regularly in a net repayment position (because of the nature of their outgoing activities) can ask for a monthly VAT recovery licence. This will be the case when a taxable person mainly exports or supplies goods to other member states, but also in cases where a refund position is caused by reverse charge, an authorisation may be granted for monthly refunds (license for monthly VAT refund).

Where VAT payable exceeds VAT recoverable, the difference must be paid by the 20th of the month following the tax period (month or quarter). For a 'quarterly VAT payer', two monthly instalments are also due on the 20th of the second and third month of each quarter. These instalments amount to one third of the VAT due for the preceding quarter. A balancing payment for the quarter is then made when the return is submitted.

### Are penalties imposed for the late submission of returns/payment of tax?

For the late filing of a VAT return the Belgian VAT authorities can impose a VAT penalty of €100 per VAT return with a maximum of €1,000. For late payment of the VAT amount due in principle (only) an interest for late payment at 0.8% per month will be imposed. Please note the VAT code also foresees that a VAT penalty of 20% can be imposed. If several VAT returns are outstanding a special VAT account is opened. As from this date, the VAT penalty of 20% on the VAT amount due will in practice be claimed and is accumulated with interest for late payment at 0.8% per month. In such cases the directors are jointly and severally liable with the company.

### Are any other declarations required?

Businesses that are registered for VAT in Belgium and make supplies of goods or services to traders registered for VAT in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must mention the VAT number of the recipients of the goods and services.

At the moment that the amount of intra-community supplies of goods exceeds the threshold of €50,000 per quarter, monthly ESLs have to be submitted. Below the threshold, quality ESLs may be submitted (by option) unless the company is obliged or is filing monthly VAT returns (threshold of €2.5 million). The ESL has to be filed no later than the 20th of the month following the month or quarter concerned. Where a VAT payer has no supplies of goods and/or services to other member states, no ESL must be filed for that particular month or quarter.

In addition, if the value of the intra-EU trade in goods dispatched (€1,000,000) or arriving (€1,500,000) from other EU is above the annual threshold, a supplementary declaration (so-called intrastat arrival and dispatch declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

Finally, each year a VAT listing of the supplies to Belgian customers registered with VAT in Belgium has to be filed (so-called yearly sales listing). This list includes the following information:

- the VAT number of the clients
- the total turnover per client
- the total amount of VAT.

In case of a VAT group, each member of the VAT group should file their own annual sales listing. This list must be filed by 31 March of the year following the year concerned (at the latest). If no supplies to Belgian customers registered with VAT in Belgium have been made during a year, the VAT authorities must be informed (via a box in the VAT return or nil yearly sales listing).

### Are penalties imposed in other circumstances?

For a range of errors and omissions resulting in non-compliance with the VAT rules, administrative VAT penalties can be imposed. There are two types of VAT penalties: (reduced) proportional penalties and lump-sum penalties. In addition to the penalties interests for late payment at 0.8% per month can be claimed. In cases of spontaneous VAT correction (ie prior to any intervention/question of any tax authority) no proportional penalty will be due, but the lump-sum penalties will remain due.

In case the infraction was committed with the intention to evade VAT or to facilitate VAT evasion the 200% VAT penalty will be claimed. In other cases, reduced proportional VAT penalties apply ranging between 5% and 100% (for some breaches a difference is made whether it concerns the first, second or next breaches). Criminal proceedings and penal sanctions may arise in the case of more serious matters (eg fraud).

The Belgian VAT legislation foresees amongst others the following VAT penalties:

|   | Penalty |
|---|---------|
| Non (or late) payment of Belgian VAT  | 20%     |
| Non-issuance of an invoice  | 100%    |
| For certain incorrect invoice statements  | 100%    |
| No import document is made up   | 25%     |
| For incorrect application of the reverse charge mechanism   | 20%     |
| For incorrect VAT deduction   | 10%     |
| For the non-reporting of transactions (without VAT due)   | 10%     |
| <b>Additional penalties</b>   |         |
| Lump-sum penalties ranging between €50 and €5,000 are foreseen for other breaches of the VAT code. The penalty will depending on the nature and severity of the breach (eg €3,000 for the non-filing of the yearly sales listing, mistakes regarding obligatory (but not highly essential) invoice statements (€250 per invoice with a maximum of €5,000 per breach). For instance failure to maintain adequate records, provide information (including answering to questions of the VAT authorities) or (repeated) mistakes in the VAT reporting. |         |

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Belgium?

Only in case a foreign company is not obliged to register for VAT purposes in Belgium it may be possible to reclaim the VAT incurred in certain circumstances and considering Belgian VAT deduction limitation rules.

Two schemes exist, one for businesses established in the EU (procedure under Directive 2008/09/EC, formerly 8th Directive procedure) and another for businesses established outside the EU (13th VAT Directive 86/560/EEC). In both cases the claim has to be made by 30 September of the year following that in which the VAT was incurred. The claim period in Belgium is from 1 January to 31 December each year (or at least per quarter with exception for the remainder of the year).

#### Businesses established in the EU

The EU cross border refund scheme is available in all EU member states, and enables a business established in another EU country to recover Belgian VAT incurred. To be eligible to make a claim, the claimant must be a taxable person established in an EU member state other than the one from which the claim is to be sought. In addition, the claimant:

1. may not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
2. may not have a fixed establishment, seat of economic activity, place of business or other residence there.

The claim is submitted electronically in the country of establishment and will subsequently be sent over to the VAT authority from whom the repayment is being sought. The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The minimum amount for a refund application is €400 (unless if the application relates to a total calendar year or the remainder of a calendar year: minimum of €50). The amount that is refundable is determined by the Belgian VAT deduction limitation rules. The general threshold for the submission of an electronic copy of an invoice is where the taxable basis on the invoice or import document is €1,000 or more (€250 for invoices relating to fuel costs). The serial number used in the application form should be included on the documents.

### Businesses established outside the EU

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Belgium or purchases of goods and services used in Belgium. The scheme is available to any person carrying on a business when being established outside the EU, provided that in the period of the claim:

1. they were not registered or liable to be registered for VAT in Belgium
2. they were not established in any EU country.

The minimum amount for a refund application is €200 (unless if the application relates to a total calendar year or the remainder of a calendar: minimum of €25). A specific paper claim form has to be submitted to Belgium VAT authority no later than 30 September of the next year.

### What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address and VAT registration number
- the invoice date
- the date of taxable event if this differs from the invoice date
- the customer's name, address and VAT identification number (if any)
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- per VAT rate the total amount of VAT charged expressed in Euros.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable (taxable amount), excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- reference the reason for not charging VAT (such as reference to the article of VAT exemption in the Belgian VAT code or VAT Directive)
- reference 'btw-verlegd' reverse charge if the VAT is due by the co-contractant
- show the total of those values separately.

Electronic invoices must contain the same information as paper invoices.. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services. There is no need to ask for a special license to the VAT authorities

Special rules apply for electronic archiving of sales and purchase invoices. If invoices are stored in another member state the Belgian VAT authorities should be notified.

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# Channel Islands – Jersey

## Indirect tax snapshot

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|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>Standard rate of 5% for most goods and services.</li> <li>Zero-rated supplies include exported goods and services, the sale of a 'going concern' to a GST registered person and transactions involving the supply of land between GST registered persons.</li> <li>Exempt supplies include financial services, residential rent, fines, penalties and interest.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Goods and Services Tax (GST) is the principal indirect tax in Jersey. It is a transactional tax and is charged and collected on taxable supplies. It is worth noting that there is currently no VAT/GST in Guernsey or the other Channel Islands.  |
| <i>Is there a registration limit for the tax?</i>  | <p>Yes. If the annual turnover of taxable supplies in Jersey exceed (or are expected to exceed) UKP £300,000 in any 12 month period, it is necessary to register. Persons can voluntarily register for GST if this threshold is not exceeded if they are conducting a taxable activity and are making taxable supplies.</p> <p>However there are exemptions from registration for certain regulated business (banks, trust companies, etc.) and non-established business. This exemption is through the International Service Entity Regime (ISE) that is expanded upon below.</p> |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Yes.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | No, although many non-residents do engage with local agents to reduce compliance and operational matters.  |
| <i>How often do returns have to be submitted?</i>  | Returns can be submitted on a quarterly or annual basis depending on the annual turnover of taxable transactions of the registered person.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a GST return, or the corresponding payment, is submitted late a penalty and surcharges can be imposed.   |
| <i>Are any other declarations required?</i>  | No.  |





*Are penalties imposed in other circumstances?*

Yes. If errors or omissions have been made on the GST return penalties can be imposed.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

No. A business must be registered for GST in Jersey to be eligible to claim any GST. Currently this requires the entity to be carrying on a taxable activity in Jersey.

## What is the principal indirect tax?

Goods and Services Tax (GST) is the main type of indirect taxation in Jersey.

GST is a tax on consumption which is applied on the supply of most goods and services. It is also applied to goods upon importation into Jersey. Although GST is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority rests with the business making the supply i.e. the sale.

GST must be charged on a supply of goods or services in Jersey by a registered person in the course of furtherance of a taxable activity carried on by that person — this is referred to as output tax. Any GST on costs incurred in generating such supplies can be claimed — this is referred to as input tax. The difference between the output tax and the deductible input tax in each accounting period will be the amount of GST payable by the business to Comptroller of Taxes. Where the input tax exceeds the output tax, a refund can be claimed.

A taxable activity generally means any activity which is carried on continuously or regularly, whether or not for pecuniary profit, and involves or is intended to involve the supply of goods and services to another person for a consideration.

There are two rates of GST that are applied to goods and services in Jersey: standard rate and zero rate. In addition, some goods and services are exempted from the tax. The most common exempt supplies include financial services, residential rent, fines, penalties and interest.

Generally, businesses that make exempt supplies are unable to claim input tax on costs incurred generating those supplies, so the GST paid to suppliers is a 'real' cost to these businesses.

However, there is the ability for businesses that operate either within the Financial Services sector or where businesses supply mainly goods or services to non-Jersey residents to elect to fall within the International Service Entity regime and not apply GST to what appears to be taxable supplies and also to be able to recover any GST that they have suffered.

Goods imported into Jersey are subject to GST. This is imposed by Jersey customs at the ports of entry. The GST (plus any duties and other fees) must be paid by the importer at the time of importation in order for the goods to be released unless the importer has registered under the approved trader scheme. The approved trader scheme allows for the entity that is due to pay the GST on import to pay the GST through his usual GST submissions.

Where the goods imported are for use in the taxable activity, the importer (if GST registered) can recover the GST. GST is charged on the value of the importation, including any customs duty, freight and insurance.

It is important to note the interaction between GST and customs duty. Customs duty is levied upon the importation of certain goods into Jersey. Unlike other indirect taxes, such as GST, once duty has been paid it is not recoverable by the importer. It therefore represents a final cost to the importing business.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No.

## Is there a registration limit for the tax?

A person who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a taxable activity must register for GST if the value of its taxable supplies in Jersey exceeds UKP300,000 or is expected to exceed this limit within any 12 month period. A person can register on a voluntary basis even if the registration limit has not been reached.

It is possible for two or more persons can be registered together as a GST group if they satisfy certain control conditions.

A person cannot be treated as a member of more than one GST group at a time.

The main advantage of GST group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for GST purposes. This reduces the risk of GST being accidentally omitted on supplies between separately registered, but associated persons.

However, there are some disadvantages and any decision on whether to group register should be carefully considered. For example, all GST group members (including former members) are jointly and severally liable for the GST debt of the group during the period of their membership.

### Does the same registration limit apply to non-established businesses?

Yes, although non-resident businesses are only able to register for GST in Jersey if their taxable supplies are generated when the time of supply occurs within Jersey.

Time of supply arises at the earlier of an invoice being issued or payment being received.

### Does a non-established business need to appoint a fiscal representative in order to register?

No, this is not a requirement. However, depending upon the types of supplies being made, the logistical considerations and the volume of transactions, non-residents may engage with a local agent to facilitate the supply.

### How often do returns have to be submitted?

GST returns may be filed quarterly or annually depending upon the level of taxable supplies in a 12 month period. A quarterly return period is the default filing frequency in Jersey.

All GST returns have to be submitted on last day of the following month, together with any payment.

### Are penalties imposed for the late submission of returns/payment of tax?

Late filing penalties and surcharges are imposed if GST returns and the relevant payments are not lodged by the due date.

### Are any other declarations required?

Not applicable.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the GST legislation.

If an error is identified and voluntarily disclosed to the Comptroller of Taxes this reduces any penalty exposure (depending upon the nature of the offence and whether the disclosure was made pre or post audit notification).

### Can the GST incurred by overseas businesses be claimed if they are not registered in Jersey?

No. You must register in Jersey in order to recover any GST incurred.

Non-resident businesses are only able to register for GST if they conduct a taxable activity in Jersey. This requires the goods to be physically in Jersey at the 'time of supply', or for services, those services must be physically performed in Jersey. The time of supply provisions state that this event arises at the earlier of the issuing of an invoice or receipt of payment.

### What information must a GST invoice show?

A GST invoice must show:

- the seller's name and address
- the seller's GST registration number
- the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the total amount of GST charged expressed in UK pounds.

It must also have either:

- the amount of the supply, excluding GST
- the GST and total amount payable for the supply
- if GST is included in the final price, it has to be expressed in that case.

An input claim can only be made if a valid tax invoice is held at the time the GST return is lodged.

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# Cyprus

## Indirect tax snapshot

|  |  |
|--|--|
| <i>What are the current rate(s) of VAT?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 19% for most goods and services.</li> <li>• Higher reduced rate of 9% for some services including hotel accommodation and hospitality.</li> <li>• Lower reduced rate of 5% applies to services which include food for human consumption, medicines, renovation of private dwellings and the purchase of new immovable property which is the principal place of residence in Cyprus.</li> <li>• Zero-rated goods and services include Zero-rated goods and services include supplies related to commercial shipping and exports.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Cyprus. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the turnover of taxable transactions in Cyprus at any point in the previous 12 months, and once the limit has (or will be) reached it is necessary to register.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Yes, the same registration limits apply to non-established business. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU) e.g. mail order and internet sales.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | In certain circumstances, a non-established person may be directed by the Cyprus tax authority to appoint a fiscal representative.   |
| <i>How often do returns have to be submitted?</i>  | Businesses are required to submit VAT returns covering three month accounting periods.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty is imposed.  |
| <i>Are any other declarations required?</i>  | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU and in certain circumstances for goods moving to or from the EU. Declarations also have to be submitted for supplies of electronic, telecommunications or broadcasting services supplied to consumers in the EU.   |



*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

The following are examples of expenditure for which VAT cannot be deducted:

- Expenditure which is not incurred for business purposes
- Expenditure which relates to most exempt supplies
- Input VAT which relates to supplies of gifts under certain conditions
- Entertainment expenses for persons other than employees or directors
- Input VAT on the cost of saloon vehicles.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Cyprus and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process in most cases rests with the business making the supply ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Cyprus VAT if the following conditions are met:

- it is a supply of goods or services
- it takes place in Cyprus
- it is made by a taxable person. For this purpose, a taxable person is a person or entity who is or ought to be registered according to the provisions of the Cyprus VAT law.

There are four rates of VAT that are applied to goods and services in Cyprus; the standard rate, the higher reduced rate, the lower reduced rate and the zero rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies in most cases are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Cyprus from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the common market.

Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Cyprus exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.



### Group registration

Two or more corporate bodies can be registered together as a VAT group if:

- each of the bodies is incorporated in Cyprus
- there are financial, economic and organisational ties.  
Financial ties exist where certain elements of 'control' exist between the members, economic ties exist where the nature of the activities of the parties are similar or supplementary and organisational ties exist where there is a common management/governance structure.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of a VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members (including former members) are jointly and severally liable for the VAT debt of the group during the period of their membership.

### Does the same registration limit apply to non-established businesses?

The same registration limit applies to a non-established business.

Registration for VAT in Cyprus may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. Cyprus has adopted an annual threshold of €35,000s which equates to the lower threshold.

Distance sales from another EU country to non-taxable persons in Cyprus will be subject to VAT at the appropriate rate in the suppliers country. However, once the value of those distance sales to Cyprus exceeds the Cypriot threshold of €35,000:

- the supplier becomes liable to register for VAT in Cyprus
- Cyprus becomes the place of supply
- any further sales to customers in Cyprus are subject to Cypriot VAT.

Suppliers can choose to make Cyprus the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

### Does a non-established business need to appoint a fiscal representative in order to register?

The VAT authority in Cyprus may direct a person to appoint a VAT representative to act on his behalf for VAT purposes where the person:

- is a taxable person, or without being a taxable person carries out taxable supplies or acquires goods in Cyprus from other member states
- is not established, and does not have a 'fixed establishment' in Cyprus
- is established in a country or territory which is not an EU country (or part of such a country) and where it appears to the Cypriot authorities that there is no provision for mutual assistance similar to that which provided between Cyprus and other EU countries
- in the case of an individual, he does not have his 'usual place of residence' in Cyprus.

### How often do returns have to be submitted?

VAT returns normally cover an accounting period of three months, ending on the last day of a calendar month.

All VAT returns have to be submitted within 40 days following the end of the relevant period.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty is imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

There is a late submission penalty of €51 if a VAT return is not submitted on time. There is also a default surcharge for late payment equal to 10% of the unpaid tax. Interest is imposed on the unpaid tax and late payment surcharge according to the government interest rate which is announced each year (currently 4.0%). This is calculated on a monthly basis.

## Are any other declarations required?

Businesses that are registered for VAT in Cyprus, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

ESL's must be submitted on a monthly basis, by the 15th of the following month, regardless of the value of goods or services which are supplied.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU Member States is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis, by the 10th of the following month.

Businesses which supply electronic, telecommunications or broadcasting services to consumer residing in the EU are required to report these supplies to each Member State via the Mini One-Stop Shop (MOSS). The submission and payable VAT for these supplies is made quarterly and are due 20 days following the end of each quarter.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied in certain situations including where the business has failed to maintain adequate records, provide information (including additional declarations), issue a legal receipt or comply with any of the directions or regulations of the commissioner.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Cyprus?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member States, and enables a business established in another EU country to recover VAT incurred in Cyprus. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than Cyprus and in addition the claimant:

- must not be registered, liable, or eligible to be registered in Cyprus,
- must have no fixed establishment, seat of economic activity, place of business or other residence in Cyprus,
- during the refund period they must not have supplied any goods or services in Cyprus, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in Cyprus and the claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Cyprus or purchases of goods and services used in Cyprus. The scheme is available to any person carrying on a business established in a third country ie outside the EU, provided that in the period of the claim:

- they were not registered or liable to be registered for VAT in Cyprus,
- they were not established in any EU country,
- they made no supplies of goods and services in Cyprus other than certain specified exceptions,
- where they are established in a third country having a comparable system of turnover taxes, unless the Cyprus tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in Cyprus.

The claim period in Cyprus is from 1 July to 30 June each year. Claim forms have to be submitted to the Cyprus tax authority no later than six months from the end of the relevant designated year, i.e. by 31 December each year.

### What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the invoice date
- the seller's name and address
- the seller's VAT registration number
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- the customer's VAT registration number where applicable
- a description sufficient to identify the goods or services supplied to the customer
- for each description the number of goods or the unit price or the extent of services, the VAT rate and the net payable in Euro
- the total net amount without VAT
- the portion of any discount offered
- Analysis of each VAT rate and the total amount payable thereon, for each rate
- the total amount of VAT in Euro
- where any of the margin schemes are used adequate reference should be made on the invoice, e.g. Margin Scheme – Travel Agents
- where the cash accounting scheme is used the invoices should state "Cash Accounting Scheme"
- where self billing is being applied the invoices should state "Self Billing"
- where the recipient in another Member State is responsible for accounting for the tax the invoice should state "Reverse Charge".

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

VAT invoices can be issued, received and stored in electronic format and there is no need to notify the tax authority.

Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Czech Republic

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- Standard rate of 21% for most goods and services.
- Reduced rate of 15% for some goods and services including food and accommodation services.
- Reduced rate of 10% for foodstuff marked as essential child nutrition, pharmaceutical products and books.

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in the Czech Republic. It is a tax on consumer expenditure, and is levied on business transactions and imports.

*Is there a registration limit for the tax?*

Yes. It relates to the turnover of taxable transactions in the Czech Republic, and once the limit (CZK 1,000,000) has been reached it is necessary to register.

*Does the same registration limit apply to non-established businesses?*

No. They will need to register as soon as they start to make taxable transactions.

*Does a non-established person need to appoint a fiscal representative in order to register?*

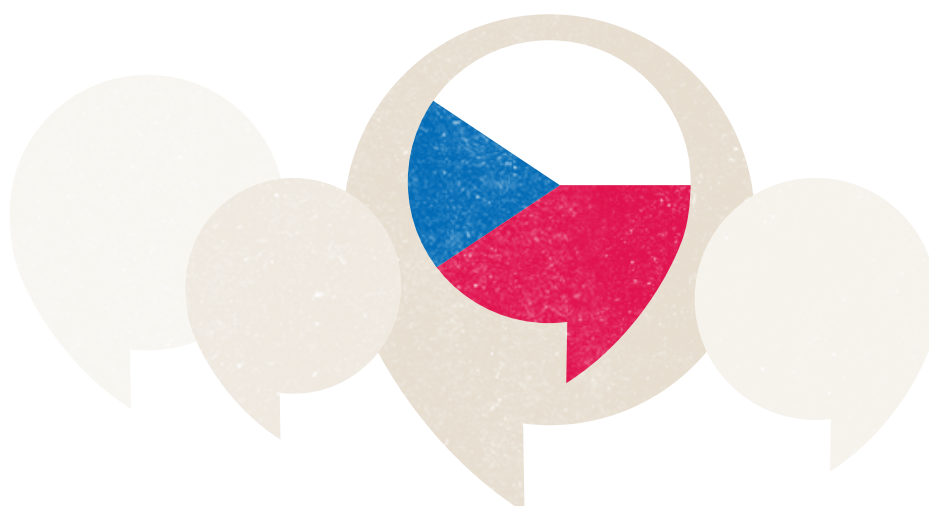
The concept of a person of a fiscal representative does not exist in the Czech VAT law.

*How often do returns have to be submitted?*

Businesses are required to submit VAT returns on a monthly basis. VAT returns can also be submitted on a quarterly basis in certain cases.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed (late submission penalty and/or late payment interest).





*Are any other declarations required?*

Yes. EC Sales Lists and control statement (this is how Financial Administration calls the report where majority of incoming and outgoing VAT related transactions have to be reported individually in the electronic way). The obligation to file a control statement is incurred by persons registered for VAT in the Czech Republic as taxpayers, both Czech and foreign entities, who in a monitored tax period:

- declare output tax
- carried out a taxable supply under the regime of local reverse charge
- claim input tax deductions
- carried out a supply under a special regime for investment gold.

Legal persons have to submit the VAT control statement no later than the 25th day after the end of each month. Natural persons have to submit the VAT control statement on the same day as their VAT return (no later than the 25th day after the taxable period: month or quarter, or special taxable period e.g. in insolvency procedure etc.).

First taxable period for which the VAT control statement has to be submitted is January 2016 or the first quarter of 2016.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions based on Directive 2008/9/EC. VAT is paid back to entities from all EU countries and very limited amount from third countries.

*Deduction of VAT*

The VAT cannot be deducted from refreshment (beverage, meal, etc.), from supplies not used for the business purposes and from supplies used for VAT exempt supplies with no right to VAT deduction.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Czech Republic and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of the Czech Republic VAT if the following conditions are met:

- it is a supply of goods or services, acquisition of goods from other EU member states and import of goods
- it takes place in the Czech Republic
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in the Czech Republic, or has a liability to become registered
- it is made in the course of business carried on by that person or entity
- it is made for consideration.

There are three rates of VAT that are applied to goods and services in the Czech Republic; the standard rate and two reduced rates. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies with no VAT deduction right are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into the Czech Republic from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

Another important Czech Republic indirect tax is excise duty levied on tobacco, beer, wine, spirits and crude oil products.

## Is there a registration limit for the tax?

A 'person' who makes taxable supplies of goods or services in the course of business must register for VAT if the value of its taxable supplies in the Czech Republic exceeds the 12 months' registration limit of CZK 1,000,000 (approximately €40,000). A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration.

Two or more corporate bodies can be registered together as a VAT group if each of the bodies is established, or has a fixed establishment, in the Czech Republic. A VAT group means a group of persons related through capital with the share exceeding 40% or entities controlled by the same person.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members (including former members) are jointly and severally liable for the VAT debt of the group during the period of their membership.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses which are not established in the Czech Republic, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in the Czech Republic, irrespective of the level of turnover.

Registration for VAT in the Czech Republic may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country for whom the goods acquisition in that state is not subject to tax. The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. The Czech Republic has adopted an annual threshold of CZK 1,140,000.

Distance sales from another EU country to non-taxable persons in the Czech Republic will be subject to VAT at the appropriate rate in the supplier's country. However, once the value of those distance sales to the Czech Republic exceeds the threshold of CZK 1,140,000:

- the supplier becomes liable to register for VAT in the Czech Republic
- the Czech Republic becomes the place of supply
- any further sales to customers in the Czech Republic are subject to CZ VAT.

Suppliers can choose to make the Czech Republic the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (i.e. where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (i.e. where the customer belongs). Therefore B2C supplies of electronically supplied services to customers in the UK are subject to UK VAT. To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification. The UK is popular choice for a MOSS registration due to the English language.

## Does a non-established business need to appoint a fiscal representative in order to register?

The concept of a fiscal representative is not defined in the Czech Republic VAT law. However, the non-established business may arrange for a representative based on power of attorney.

## How often do returns have to be submitted?

VAT returns normally have to be submitted on a monthly basis. Based on application and meeting certain conditions required the entity may apply for a quarterly tax period.

All VAT returns have to be submitted within 25 days of the end of the relevant tax period, together with any tax due.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

If the VAT return is not filed in time a 0.05% tax liability (maximum 5%) per day penalty is imposed from the 6th working day. Delayed payment penalty is the annual rate of the Czech National Bank repo rate plus 14% (currently approximately 14-15% in total annually) is imposed from the 5th working day after the due date.

## Are any other declarations required?

Businesses that are registered for VAT in the Czech Republic, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

Generally, the ESLs must be submitted each calendar month. If just services under the reverse charge regime are supplied the ESL is submitted in the same period as the tax return.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold (CZK 8 million), a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

As of January 2016 the taxable persons registered for VAT in the Czech Republic are obliged to submit VAT Control Statement in addition to regular VAT return. This statement requires data based on issued and received tax documents which are already required to be recorded in the tax evidence by the VAT Act.

## Are penalties imposed in other circumstances?

Besides penalties stated above, a penalty is imposed if tax is additionally assessed by the tax authority. This penalty amounts to 20% of the tax increased or VAT claim reduced by the tax administrator.

Criminal proceedings may be brought in the case of more serious matters.

If VAT Control Statement is not submitted on time the following penalties may be imposed:

- CZK 1 000, if it is submitted after the due date without summons from the Tax Administration,
- CZK 10 000, if it is submitted within the deadline given by the Tax Administration in issued and delivered summons,
- CZK 30 000 if the Corrective VAT Control Statement is not submitted although summons to submit a Corrective VAT Control Statement were issued and delivered by the Tax Administration,
- CZK 50 000 if the regular VAT Control Statement is not submitted nor is submitted after summons of the Tax Administration.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in the Czech Republic?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member States, and enables a business established in an EU country to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member state other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member State from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member State of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into the Czech Republic or purchases of goods and services used in the Czech Republic. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in the Czech Republic
- he was not established in any EU country
- he made no supplies of goods and services in the Czech Republic other than certain specified exceptions
- where he is established in a third country having a comparable system of turnover taxes, unless the Czech Republic tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in the Czech Republic.

The number of the countries eligible for this refund is very limited.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the date of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- the customer's VAT registration number
- a description sufficient to identify the goods or services supplied to the customer
- the unit price exclusive of tax and discount, if not included in the unit price
- tax base
- the rate
- the total amount of VAT in CZK.

The invoice shall also include the following information:

- a reference to the relevant provisions of the VAT Act, the provisions of the EU or other information indicating that a transaction is exempt if it is exempt from VAT
- 'Self-billing' if the person for whom the transaction is carried out, is empowered to issue a tax invoice
- 'Reverse charge' if the person liable to pay tax person for whom the transaction was carried out.

VAT invoices can be issued, received and stored in electronic format. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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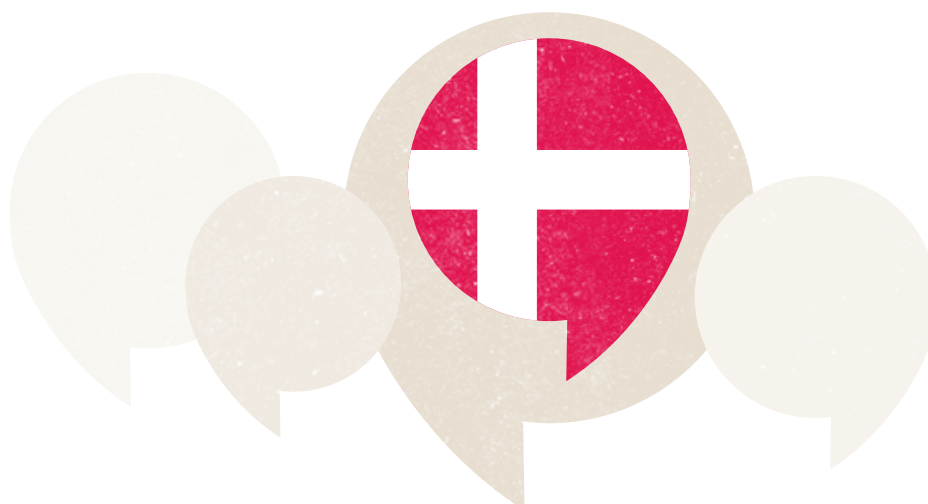




# Denmark

## Indirect tax snapshot

|  |   |
|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• Standard rate of 25% for most goods and services.</li> <li>• Reduced (effective) rate of 5% for artists' own art objects sold for the first time.</li> <li>• Zero-rated supplies – newspapers and other supplies that mostly relate to international trade.</li> </ul>   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Denmark. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the annual turnover of taxable transactions in Denmark, and once the limit has (or will be) reached it is necessary to register. The registration threshold for VAT registration is an annual turnover of DKK 50,000 (About €6,700) and applies to traders who are established in Denmark.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No. There is no registration limit for businesses that are not established in Denmark and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU), eg mail order and internet sales.                             |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | In certain circumstances, a non-established person outside of the EU may be directed by the Danish tax authority to appoint a fiscal representative.  |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit VAT returns covering three month accounting periods. Returns can also be submitted on a monthly or biannual basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. The most typical VAT related offenses are errors caused by negligence (eg failure to meet deadlines), which may cause minor surcharges for reminders etc. In cases of late payment, interest will also be due.   |
| <i>Are any other declarations required?</i>  | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. This reporting system is known as 'sales listings' or 'EU sales listings' in the common language. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU. |
| <i>Are penalties imposed in other circumstances?</i>   | Yes. Penalties can be imposed for a range of errors or omissions.   |



*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

#### *Deduction of VAT*

##### Non-deductible input VAT:

- Acquisition and operation of passenger cars equipped for the carriage of no more than nine persons (special rules applies to long-term leasing). However, this does not apply to the cost of crossing the fixed link over the Øresund into Sweden, for traders who trade in or hire out motor vehicles or who operate driving schools.
- Purchase of commercial and cargo vehicles, (eg a van or lorry) with a total permissible weight of not more than three tons, if it is not exclusively used in connection with the trader's deductible supplies of goods and services. VAT on costs related to operation can usually be fully deducted.
- Purchases made for the benefit of the employees (staff) or the owners of a business (eg food, meals, accommodation etc.)
- Entertainment, hotel accommodation, restaurant services and gifts. A special rule applies whereby ¼ of the VAT amount paid for restaurant services are deductible. 100% of the VAT on purchases etc. related to hotel accommodation is deductible, provided that the costs relate strictly to business purposes. VAT on costs of entertainment and gifts are not deductible.
- Acquisition and operation of premises for the trader's owner and staff.
- Payment in kind of the trader's staff.
- Acquisition and operation of crèches, kinder gardens, recreational centres, holiday homes, summer cottages, and similar for the trader's staff.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Denmark and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Danish VAT if the following conditions are met:

- it is a supply of goods or services. Although the term 'supply' is not defined in the legislation, it has a broad interpretation
- it takes place in Denmark
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Denmark, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are three rates of VAT that are applied to goods and services in Denmark; the standard rate, the reduced rate, and the zero rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Denmark from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Denmark exceeds the annual registration limit of DKK 50,000 (approximately €6,700), or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities is very different.

Two or more taxable persons (corporate bodies) can be registered together as a VAT group if:

- each of the bodies is established, or has a fixed establishment, in Denmark
- they must carry out non-taxable or non-economic activities
- the entities (eg a parent company) directly or indirectly holds 100% of shares of the other entities.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of VAT group registration is that any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members are jointly and severally liable for the VAT debt of the group during the period of their membership.

The Danish tax authority must give permission to form a VAT group. The application must be submitted one month before the start date.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses who are not established in Denmark, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in Denmark, irrespective of the level of turnover.

Registration for VAT in Denmark may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. Denmark has adopted an annual threshold of DKK 280,000 (about €37,500), which almost equates to the lower threshold in Euros.

Distance sales from another EU country to non-taxable persons in Denmark will be subject to VAT at the appropriate rate in the suppliers' country. However, once the value of those distance sales to Denmark exceeds the Danish threshold of DKK 280,000 (about €37,500):

- the supplier becomes liable to register for VAT in Denmark
- Denmark becomes the place of supply
- any further sales to customers in Denmark are subject to Danish VAT.

Suppliers can choose to make Denmark the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (i.e. where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (i.e. where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in Denmark may direct a person to appoint a VAT representative to act on his behalf for VAT purposes where the person is established in a country or territory which is not an EU country (or part of such a country) and where it appears to the Danish tax authority that there is no provision for mutual assistance similar to that which provided between Denmark and other EU countries. However, this does not apply to persons established on the Faroe Islands or in Greenland (which are parts of the Kingdom of Denmark, but not part of the EU) or in Iceland or Norway.

Traders established in the EU, Greenland, the Faroe Islands, Iceland or Norway can elect to be registered directly at their home address.

## How often do returns have to be submitted?

VAT returns normally cover an accounting period of three months, ending on the last day of a calendar month.

As a main rule, a newly registered business must declare VAT electronically on a quarterly basis unless the expected annual revenue is more than approximately €7,333,333 (in which case the VAT period is a month).

A business with annual revenue of less than DKK 5,000,000 (approximately €666,667) must file an electronic VAT return bi-annually. The VAT must be declared and paid at the latest on the first day of the third month after the expiry of the tax period.

The VAT period is a calendar quarter for a business with annual revenue of between DKK 5,000,000 and DKK 50,000,000 (approximately €666,667 – 6,666,667). The VAT must be declared and paid at the latest on the first day of the third month after the expiry of the tax period.

For businesses with annual revenue of more than DKK 50,000,000 (approximately €6,666,667), the VAT period is a calendar month. VAT must be declared and paid at the latest on the 25th day of the following month. However, VAT for June should be reported and paid by a specific date indicated by the tax authorities each year (around 17 August) as that is the main summer holiday period.

## Are penalties imposed for the late submission of returns/payment of tax?

If the payment is late, the tax authority will charge fees and interest. Interest will be added to the outstanding VAT amount for each day the business exceed the deadline. Therefore, the outstanding amount will increase for each day the businesses do not pay.

## Are any other declarations required?

Businesses that are registered for VAT in Denmark, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs) electronically. The ESLs must show details of the recipients of the goods and services.

The reports (ESLs) must be submitted on a monthly basis by the 25th of the next month. There is also an option to file the reports on a quarterly basis if the business's revenue remains below a certain threshold and if the company is not reporting VAT on a monthly basis.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.



## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

Notifying the Danish tax authorities of an offence may reduce (or even avoid) sanctions, provided that the violation of the VAT provisions is not due to wilful intent. If a violation of the Danish VAT Act occurs in a field with especially complex VAT rules, the fine may also be reduced (unless it can be proved that the violation was committed intentionally).

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Denmark?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member States, and enables a business established in an EU country to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member State from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member State of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Denmark or purchases of goods and services used in Denmark. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that the following four conditions are met:

1. The business is not domiciled or has a place of business or the like in Denmark.
2. The goods or services are bought for commercial use.
3. The business would be subject to a registration tax in accordance with the Danish VAT Act (Momsloven) if the business was situated in Denmark.
4. During the period which the application concerns, the applicant has not conducted business which is subject to registration tax except for:
  - delivery of services (including transport services and related services), if these services are directly related to the export of goods to locations outside the EU
  - delivery of services (including transport services and related services), if these services are directly related to the import of goods which are included by a scheme according to which complete VAT exemption is granted on imports. This also applies to services in connection with goods held in bond in a tax and customs warehouse.

The claim period in Denmark is from 1 July to 30 June each year. Claim forms have to be submitted to the Danish tax authority no later than six months from the end of the relevant designated year, ie by 31 December each year.



## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

Where a business makes retail sales and makes a sale of goods or services for DKK 3,000 or less exclusive of VAT, a simplified VAT invoice can be issued. This applies if the sales amount is small or if the purchaser is a private person.

In some cases, there must always be issued a full invoice. This applies, for example, if the buyer is another VAT registered business that asks for a full invoice. This applies, for example, also from the sale of services to private individuals, if the invoice amount incl. VAT is DKK 5,000 or more.

VAT invoices can be issued, received and stored in electronic format in Denmark and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

Electronic invoices may with regard to VAT be stored abroad, provided that:

- Danish tax authorities are notified of the storage location
- Danish tax authorities have full online access upon request
- storage does not take place outside the EU or the Nordic countries.

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# Estonia

## Indirect tax snapshot

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|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>Standard rate of 20% for most goods and services.</li> <li>Reduced rate of 9% for some goods and services including books, periodic publications, medicinal products and accommodation services.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | Yes, as of 2017, the VAT rate of accommodation services and accommodation services with breakfast is increased from 9% to 14%.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Estonia. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. If the taxable supply of the transactions, except the transfer of fixed assets and distance selling to a person of Estonia, carried out by a person exceeds €16,000 as calculated from the beginning of a calendar year, an obligation to register as a taxable person arises.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Yes. In addition, if a taxable person of another EU is engaged in distance selling to a person of Estonia (excluding distance selling of excise goods) and the taxable value of the supply of the distance selling exceeds €35,000 as calculated from the beginning of a calendar year, the registration obligation arises. |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | If a non-established person is established outside of the EU, they are required to appoint a fiscal representative.   |
| <i>How often do returns have to be submitted?</i>  | The taxable period is one calendar month. The VAT return must be submitted to the tax authority by the 20th day of the month following the taxable period.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed. If the VAT payment is late, an interest of 0.06% per day is calculated based on the payable amount.   |
| <i>Are any other declarations required?</i>  | Yes. EC Sales list has to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Intrastat declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.  |



|   |   |
|---|---|
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.  |
| <i>Deduction of VAT</i>   | The VAT of goods or services relating to the reception of guests or the provision of meals or accommodation for employees is not deductible. In certain circumstances, when acquiring an automobile and purchasing of goods and receiving of services for such an automobile then 50% of the input VAT is deductible. |

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Estonia and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Estonian VAT if the following conditions are met:

- it is a supply of goods or services (although the term ‘supply’ is not defined in the legislation, and has a broad interpretation)
- it takes place in Estonia
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Estonia, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are three rates of VAT that are applied to goods and services in Estonia; the standard rate, the reduced rate, and the zero rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a real cost.

Most goods imported into Estonia from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in ‘free circulation’ and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A person who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Estonia exceeds the annual registration limit (€16,000), or is expected to exceed the limit in the near future. A person is required to submit an application for registration as a taxable person to the tax authority within three working days as of the date on which the registration obligation arises.

A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a person includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

The tax authority shall register a parent undertaking and its subsidiaries as a single taxable person, ie VAT group, on the basis of a joint application by such taxable persons. Taxable persons who are economically and organisationally related shall also be registered as a VAT group on the basis of a joint application if more than 50 percent of the shares, holding or votes of each company to be registered within the composition of a VAT group are owned by one and the same person or if the persons are related on the basis of a franchise contract.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of a VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members (including former members) are jointly and severally liable for the VAT debt of the group during the period of their membership.

The tax authority may register the company retrospectively, on its own initiative, if a business fails to register at the correct time.

### Does the same registration limit apply to non-established businesses?

The normal VAT registration limits and regulations also apply to businesses who are not established in Estonia.

Registration for VAT in Estonia may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses as well as other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 euros per calendar year, or the equivalent in its own currency. Estonia has adopted an annual threshold of €35,000.

Distance sales from another EU country to non-taxable persons in Estonia will be subject to VAT at the appropriate rate in the suppliers' country. However, once the value of those distance sales to Estonia exceeds the threshold of €35,000:

- the supplier becomes liable to register for VAT in Estonia
- Estonia becomes the place of supply
- any further sales to customers in Estonia are subject to Estonian VAT.

Suppliers can choose to make Estonia the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect from 1 January 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

### Does a non-established business need to appoint a fiscal representative in order to register?

A person of another Member State engaged in business with no permanent establishment in Estonia has the right to appoint upon registration as a taxable person a tax representative, who has been approved by the tax authority.

A person of a third country engaged in business with no permanent establishment in Estonia shall appoint, upon registration as a taxable person, a tax representative, who has been approved by the tax authority.

## How often do returns have to be submitted?

The taxable period is one calendar month. The VAT return and appendix thereto shall be submitted to the tax authority by the 20th day of the month following the taxable period.

On the basis of a reasoned request made by a taxable person, the tax authority may, by his or her decision, establish a taxable period longer than one calendar month for the taxable person, which begins on the first day of the calendar month or first taxable period and ends on the last day of one of the following calendar months. Also in this case, VAT returns shall still be submitted to the tax authority by the 20th day of the month following the taxable period.

The first taxable period for a taxable person (and taxable person with limited liability) is the period from the date of registration until the end of the same month. If the number of calendar days in the first taxable period is less than fifteen, the taxable person or taxable person with limited liability may declare the supply of the first period together with the supply of the following taxable period and submit one return concerning two taxable periods.

The VAT return shall be submitted electronically if the person has been a taxable person for at least 12 months or more than five invoices are included in the appendix to the VAT return. On the basis of a reasoned request made by a taxable person or a taxable person with limited liability, the tax authority may allow the submission of a VAT return on paper.

The data from the invoices issued to and received from a legal person, sole proprietor and state, rural municipality and city authority and the registry code issued to a transaction partner in Estonia, the personal identification code in the case of a notary and bailiff shall be reflected in the appendix to the VAT return. The appendix to the VAT return shall reflect the invoices in which the transferor of the goods or provider of services has marked the supply taxable at the 20% and 9% VAT rate, except for the invoices submitted under the special arrangement, if the invoice or the total amount of invoices without VAT makes up at least €1,000 for one transaction partner during the taxation period. The transaction partner-based threshold shall be calculated separately for purchase and sale invoices. The invoices shall not be summed up in the appendix to the VAT return.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time.

If the tax is not paid by the due date, 0.06% tax interest will be calculated per day on top of the tax amount.

For the late submission or payment, the tax authority can issue a notification to the taxpayer confirming that a penalty may be imposed if the obligation will not be replete by a given deadline.

## Are any other declarations required?

Businesses registered for VAT in Estonia that make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

ESLs should be submitted for each taxable period, by the 20th day of the month following the taxable period.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.



## Can the VAT incurred by overseas businesses be claimed if they are not registered in Estonia?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU States, and enables a business established in the EU to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member State from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member State of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Estonia or purchases of goods and services used in Estonia. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- they were not registered or liable to be registered for VAT in Estonia
- they were not established in any EU country
- they made no supplies of goods and services in Estonia other than certain specified exceptions
- where they are established in a third country having a comparable system of turnover taxes, unless the Estonian tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in Estonia.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

## What information must a VAT invoice show?

A VAT invoice must show:

- the serial number and date of issue of the invoice
- the name and address of the taxable person and the person's registration number as a taxable person
- the name and address of the acquirer of goods or the recipient of services
- the registration number of the acquirer of goods or the recipient of services as a taxable person if the acquirer of goods or the recipient of services has tax liabilities upon the acquisition of goods or receipt of services
- the name or a description of the goods or services
- the quantity of the goods or extent of the services
- the date of dispatch of the goods or provision of the services or the date of receipt of full or partial payment for the goods or services if the date can be determined and differs from the date of issue of the invoice
- the price of the goods or services exclusive of VAT and any discounts, if these are not included in the price
- the taxable amount broken down by different rates of VAT together with the applicable rates of VAT or the amount of supply exempt from tax
- the amount of VAT payable. The amount of VAT shall be indicated in Euros.

An invoice may be issued on paper or, subject to acceptance by the acquirer of goods or the recipient of services, by electronic means.

A simplified invoice may be issued, provided that the amount indicated in the invoice does not exceed €160, exclusive of VAT, in the following cases:

- 1) upon the provision of transport services for passengers
- 2) in the case of invoices printed by parking meters, automated petrol stations and other similar machines.

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# Finland

## Indirect tax snapshot

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| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• Standard rate of 24% for most goods and services.</li> <li>• Reduced rate of 14% for food, animal feed, restaurant and meal catering services.</li> <li>• Reduced rate of 10% for books, medicine, services relating to physical exercise and sports, movies, entrance to cultural events and to entertainment events, transport of passengers, accommodation, and TV licenses.</li> <li>• A Zero-rate applies in certain instances (e.g. intra-Community supplies of goods and exports of goods). Additionally, certain services (e.g. financial services, insurance services, and certain educational services) are exempted from VAT.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Finland, which is levied on supplies of goods and services.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the annual turnover of taxable transactions in Finland, and once the limit has been reached it is necessary to register.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No. As a rule non-established businesses are required to register for VAT purposes once they start to make VAT taxable transactions in Finland. However, as an exception, there is a registration limit for non-established businesses engaged in distance sales.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | A fiscal representative is required, if the person is established in a non-EU country or in a country with Finland has not concluded a treaty regarding mutual change of information.  |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit VAT returns on monthly basis. Quarterly and annual reporting is available for small business.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty is imposed.  |
| <i>Are any other declarations required?</i>  | In addition to the VAT return a European Sales Listing (ESL) – return needs to be submitted in connection with supplies of goods and services to other EU countries.   |



*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, overseas businesses may apply for refund in certain situations provided that all conditions for the refund are met.

*Deduction of VAT*

VAT deduction can only be made from purchased made for VATable business use. Purchases made, for example private use or entertainment is not VAT deductible.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main indirect tax in Finland as in other European Union (EU) countries.

VAT is a consumption tax which is applied on the supply of most goods and services. It is also applied to goods, and certain services imported to Finland.

As VAT is levied on transactions the seller has the responsibility for charging, collecting and paying VAT to the tax authority on every supply (output tax). Thus, the seller operating a value added taxable business in Finland is liable to register for VAT purposes.

In addition to output tax, the seller may also incur VAT (input tax) on its purchases including the VAT paid at importation. The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

Value added tax is payable in Finland on:

- the sales of goods and services in the conduct of business, which takes place in Finland
- the importation of goods, which takes place in Finland
- the intra-Community acquisition of goods, referred to in Article 26 a, which takes place in Finland
- the removal of goods from warehousing arrangements, as referred to in Article 72 l, which takes place in Finland.

There are three rates of VAT that are applied to goods and services in Finland; the standard rate and the two reduced rate and the zero rate. Additionally, a zero-rate applies in certain instances. Even though VAT is broadly applied to transactions, some goods and services are exempted from VAT.

## Is there a registration limit for the tax?

A person operating a value added taxable business is liable to register for VAT purposes if his turnover during a calendar year amounts to €8,500 or more (In 2016 the threshold is €10,000). Additionally, a voluntary registration is available even if the registration limit would not be exceeded.

For the registration purposes, a 'person' includes any legal entity engaged in business operations. The registration will cover all business activities apart from voluntary registration for letting of real property.

Two or more persons within the field of financial or insurance services may form a group for VAT purposes and apply for VAT group registration. For the VAT group registration it is provided that the persons within the group:

- are providing financial or insurance services
- are established, or has a fixed establishment, in Finland
- have close financial, economic and administrative connections with each other.

The main advantage of a VAT group is that, any supply of goods or services within the group is disregarded for VAT purposes. However, there are also some disadvantages such as the liability for taxes. Within the group all members of the VAT group are jointly and severally liable for the VAT debt of the group during the period of their membership.

## Does the same registration limit apply to non-established businesses?

No. The VAT registration threshold does not apply to supplies made by a non-established business that does not have a fixed establishment in Finland. If the reverse charge does not apply, the non-established business must register for VAT in Finland.

A non-established person that does not have a permanent establishment in Finland may apply for voluntary registration for VAT purposes.

A non-established person engaged in distance selling is liable to register for VAT purposes in Finland if the threshold of €35,000 is exceeded during a calendar year. Once the threshold is exceeded the supplies are subject to VAT in Finland. Also a voluntary registration for distance sales before the threshold is exceeded is available.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

As of the beginning of 2015, telecommunications, radio and television broadcasting and electronically supplied services sold to non-taxable persons will be taxed in the country where the buyer is established. As of 1st January 2015, businesses supplying electronic services to EU non-taxable persons are able to choose Finland as their Member State of identification and declare VAT on services sold to other EU Member State consumers via the Finnish internet portal.

A business using the special scheme will take care of the reporting and payment obligations related to the VAT of telecommunications, broadcasting or electronically supplied service sales in one EU Member State. A business not using the special scheme must be registered for VAT purposes in Finland if it sells telecommunications, broadcasting or electronically supplied services to consumers in Finland.

### Does a non-established business need to appoint a fiscal representative in order to register?

Yes, a fiscal representative is required from such persons, that are not established in Finland and do not have a fixed establishment in the European Union or in a country which have a treaty with Finland concerning mutual assistance. The fiscal representative appointed must be domiciled in Finland and needs to be approved by the Regional Tax Office. In addition the Regional Tax Office may require a guarantee for the payment of the tax.

### How often do returns have to be submitted?

The general accounting period for VAT is one month. The periodic VAT return submitted on monthly basis must arrive at the tax office on the 7th day of the second month following the accounting period in question.

However, there is relief available for smaller businesses. If the turnover is under €50,000 per year the person liable to tax may apply for quarterly accounting period, i.e. the periodic VAT return is filed in every three months. If the turnover is under €25,000 per year the person liable to tax may apply for annual accounting period, i.e. the periodic VAT return is filed in every twelve months.

### Are penalties imposed for the late submission of returns/payment of tax?

Yes. If the periodic VAT return is submitted late a penalty for late filing is imposed. The minimum amount of the penalty for late filing is €5 and the maximum €15,000.

If the tax payable has not been paid by the due date a late payment interest is payable. The taxpayer is expected to calculate the correct amount of late payment interest and account it to the tax account on one's own initiative. The interest will start to accrue on the day following the due date and it will stop accruing on the date of payment, both days inclusive.

### Are any other declarations required?

A person making intra-community supplies of goods or services is required to submit EC sales listing (ESL return). The ESL return states the details of the purchaser and the value of the transactions of goods and services. The ESL return needs to be submitted not later than the 20th day of the month.

Additionally, an intra-stat return for import or export needs to be filed if certain thresholds have been exceeded in intra-community supplies of goods. The intrastat return is submitted on monthly basis.

### Are penalties imposed in other circumstances?

In addition to penalty for late filing and late payment interest a punitive tax increase may be imposed if the VAT rules are not followed. Depending on the nature of the neglect or error, the tax increase may vary from 5% to 20%. In case of tax fraud, the tax may be increased by not less than 50% and to not more than three times its amount.



## Can the VAT incurred by overseas businesses be claimed if they are not registered in Finland?

Yes, Finland has adopted two special refund schemes for non-registered businesses; one for EU established businesses and the other for businesses outside EU.

The EU cross border refund scheme, available in all EU member States, allows non-registered, but EU established businesses to recover VAT incurred in Finland under certain conditions.

Businesses established outside of the EU can also reclaim the VAT incurred on imports or purchases of goods and services under certain strict conditions.

If the value of goods or services is less than €400 a simplified invoice may be issued. A simplified invoice must state the following information:

- the date of issue
- the seller's name and VAT number (business identification)
- identification of the type of goods (including quantity) and services supplied
- the VAT due, specified by the rates of VAT chargeable, or alternatively, the price(s) exclusive of VAT per rate of VAT.

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## What information must a VAT invoice show?

The following information must be stated on a VAT invoice:

- the date of issue of the invoice
- a sequential number, based on one or more series, which uniquely identifies the invoice
- the VAT number of the taxable person who supplied the goods or services to which the invoice relates
- the buyer's VAT number when reverse charge is applied, and in the case of intra-community trade
- full names and addresses of the seller and buyer
- the quantity and nature of the goods supplied or the extent and nature of the services rendered
- the date on which the goods or services were supplied or the date on which a prepayment on account was made
- the price exclusive of VAT per rate of VAT, displaying the unit price and any rebates, discounts and credits (if not included in the unit price)
- the rate of VAT chargeable
- the VAT payable in respect of the supply of the goods or services
- indications of any VAT exemption or reverse charge
- if applicable, the details necessary to identify the goods as a new means of transport
- if applicable, an indication concerning the VAT margin scheme if second-hand goods, works of art, antiquities and collectibles or certain travel agency services are being supplied
- if applicable, an indication concerning the supply of taxable investment gold
- if an earlier invoice is being amended, a reference to the earlier invoice.

# France

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

Mainland

- standard VAT rate: 20%
- reduced VAT rates: 10%, 5.5%, 2.1%

Corsica

- standard VAT rate : 20%
- reduced VAT rates: 13%, 10 %, 2.1%, 0.9%

French overseas territories

- standard VAT rate: 8.5%
- reduced VAT rates: 2.1%, 1.75%, 1.05%

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in France. It is a tax on consumer expenditure, and is collected on business transactions and imports.

*Is there a registration limit for the tax?*

No. There is no VAT registration threshold in France.

Under the franchise regime, the established entity is required to VAT-register. However, the latter is dispensed from filing French VAT returns and paying VAT if the turnover generated during the previous calendar year did not exceed:

- €82,200 excluding VAT for supplies of goods
- €32,900 excluding VAT for services.

*Does the same registration limit apply to non-established businesses?*

Not applicable.

*Does a non-established person need to appoint a fiscal representative in order to register?*

Businesses established in the European Union (EU) may appoint a VAT agent that acts under the responsibility of the foreign entity. The VAT agent will be in charge of the French formalities in the name of the foreign entity without being liable for VAT.

Businesses established outside the EU (except some countries having concluded with France a convention of assistance for the recovery of a tax claim) must in principle appoint a French VAT representative which is jointly and severally liable for the VAT obligations including the payment.

*How often do returns have to be submitted?*

Under the standard regime, in principle, French VAT returns must be filed on a monthly basis. However, VAT returns may be filed on a quarterly basis when the annual VAT amount due is less than €4,000.



*Are penalties imposed for the late submission of returns/payment of tax?***Late filing of French VAT returns**

The French tax authorities may apply:

- 10% penalty increased to 40% or 80% under specific cases
- 0.4% per late month (late payment interest).

**Late payment of French VAT**

The French tax authorities may apply:

- 5% penalty of the VAT due unless the taxable person submits the VAT returns too late but with the full payment of the VAT due
- 0.4% per late month (late payment interest).

*Are any other declarations required?*

Depending on the nature of the operations performed in France; additional declarations may be requested (eg monthly Intrastat returns in case of intra-EU acquisitions or deliveries of goods; EC sales list for services; export or import customs documents).

*Are penalties imposed in other circumstances?*

Yes, in cases of tax audits and bad faith or fraud.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

In principle, a taxable person may recover the input VAT incurred on the purchase of goods/services used for business purposes, if this person is fully liable for VAT on its operations performed.

Some items do not entitle VAT recovery such as:

- hotel accommodation for directors or employees
- petrol
- transport of passengers
- business gifts valued at more than €65 including VAT/year and beneficiary.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main indirect tax in France.

VAT is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods and certain services entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the French tax authorities at each stage of the process rests with the business performing the supplies or selling the goods.

An established business will charge VAT (output VAT) on its sales of goods or services and incur VAT (input VAT) on its purchases. The difference between the output VAT and the input VAT in each declarative period will be the amount of VAT payable by the established business to the French tax authorities. Where the input tax exceeds the output tax, a VAT refund can be claimed.

## Is there a registration limit for the tax?

No. There is no VAT registration threshold in France.

Under the franchise regime, the established entity is required to VAT-register. However, the latter is dispensed from filing French VAT returns and paying VAT if the turnover generated during the previous calendar year did not exceed:

- €82,200 excluding VAT for supplies of goods
- €32,900 excluding VAT for services.

## Does the same registration limit apply to non-established businesses?

Non-established entities in France performing operations in the scope of French VAT need to register for VAT as soon as they start their operations in the scope of French VAT, irrespective of the level of turnover. A non-established person engaged in distance selling is liable to register for VAT purposes in Finland if the threshold of €35,000 is exceeded during a calendar year. Once the threshold is exceeded the supplies are subject to VAT in Finland. Also a voluntary registration for distance sales before the threshold is exceeded is available.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, the VAT rules determining the place of supply of electronically services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the taxation on the Member State of the consumer.

The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification).

However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Does a non-established business need to appoint a fiscal representative in order to register?

Businesses established in the EU may appoint a VAT agent that acts under the responsibility of the foreign entity. The VAT agent will be in charge of the French formalities in the name of the foreign entity without being liable for VAT.

Businesses established outside the EU (except some countries having concluded with France a convention of assistance for the recovery of a tax claim) must in principle appoint a French VAT representative which is jointly and severally liable for the VAT obligations including the payment.

## How often do returns have to be submitted?

Under the standard regime, in principle, French VAT returns must be filed on a monthly basis. However when the annual VAT amount due is less than €4,000, French VAT returns may be filed on a quarterly basis.

## Are penalties imposed for the late submission of returns/payment of tax?

### Late filing of French VAT returns

The French tax authorities may apply:

- 10% penalty increased to 40% or 80% under specific cases
- 0.4% per late month (late payment interest).

### Late payment of French VAT

The French tax authorities may apply:

- 5% penalty of the VAT due unless the taxable person submits the VAT returns too late but with the full payment of the VAT due
- 0.4% per late month (late payment interest).

## Are any other declarations required?

Depending on the nature of the operations performed in France; additional declarations may be requested (eg monthly Intrastat returns in case of intra-EU acquisitions or deliveries of goods; EC sales list for services; export or import customs documents).

## Are penalties imposed in other circumstances?

Yes, in cases of tax audits and bad faith or fraud.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in France?

Yes, it may be possible for a foreign entity not established in France to claim for the refund of the French VAT incurred under the following conditions:

- not be registered, liable, or eligible to be registered in France
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period the foreign entity must not have supplied any goods or services in the scope of French VAT, apart from certain limited exceptions.

Two VAT refund procedures exist, one for businesses established in the EU and another for businesses established elsewhere.

### Foreign entities established in the EU

Under the electronic VAT refund procedure (EU Directive 2008/9/EC), the deadline for the electronic filing of the VAT refund application is 30 September of the calendar year following the refund period.

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.

### Foreign entities established outside the EU

Under the VAT refund procedure provided by the 13th Directive, the non-EU entities must appoint a tax representative in France in charge of the VAT refund formalities.

From a practical standpoint, the VAT refund claims must be submitted within six months after the end of the calendar year, meaning by 30 June of the following year.

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 €200. For an annual claim, the minimum amount is €25.

## What information must a VAT invoice show?

Under French VAT rules, an invoice must indicate notably the following general information:

- the seller's name and address
- the customer's name and address
- the seller's VAT registration number
- the invoice date
- an invoice number which is unique and sequential
- quantity and nature of the good/services supplied
- taxable amount per rate
- unit price (exclusive of any VAT)
- rebates or discounts
- VAT rate applicable
- the total amount of VAT charged expressed in euros
- the total amount excluding of VAT per VAT rate
- in case of VAT exemption regime or reverse-charge mechanism, the reference to the relevant provisions of the French tax code or the VAT Directive 2006/112/EC or any provision indicating that the operation benefits from a VAT exemption, a reverse-charge mechanism or profit margin regime. For reverse-charge mechanism, it is required to indicate on the invoice 'Reverse-Charge'.

As from 1 January 2014, VAT law allows electronic invoicing in line with EU Directive 2010/45/EU. All formats of e-invoices are accepted, but authenticity of the origin, integrity of content and legibility must be satisfied from the invoice's date of issuance through the end of the archiving period. The electronic invoices must quote the same information than paper invoices.

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# Germany

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 19% for most goods and services.</li> <li>Reduced rate of 7% applies to a specified list which includes, for example, books, newspapers, cultural goods and services, certain agricultural and forestry goods, charitable services, work of art and local public transport.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Germany. It is a tax on consumer expenditure, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>   | No.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Not applicable.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | No.  |
| <i>How often do returns have to be submitted?</i>   | Returns have to be submitted on a monthly basis in the first two years of registration. In addition all taxable persons must submit annual VAT returns.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU (EC Sales Listing). Declarations also have to be submitted for commercial statistic purposes regarding the movements of goods from one member state to another (INTRASTAT).                  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.   |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Germany and in other European Union (EU) countries.

It is a tax on consumption, which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

### Taxable supplies on goods and services

A transaction is within the scope of German VAT, if the following conditions are met:

- it is a supply of goods or services. According to German law, a supply of goods is the transfer of the right to dispose of tangible property for consideration. Activities for consideration, which are not regarded as a supply of goods, are services
- it takes place in Germany
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who practices commercial or professional activity independently and is registered for VAT, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

### Due date

Generally VAT is due and accounted for at the end of the month in which the supply of goods is performed; as a general rule, the tax has to be calculated on the agreed consideration. On application the competent local tax office can allow that an entrepreneur accounts for the VAT on basis of received consideration. The consideration receipts basis is a method available only to three groups of persons:

- entrepreneurs who's total amount of supplies have not exceeded €500,000 in the previous calendar year
- entrepreneurs who are – by way of exemption according § 148 of the German Fiscal Code – not required to keep accounts and to make periodical financial statements on basis of annual inventories
- entrepreneurs who (and only as far as they) perform turnovers in an independent profession according § 18 (1) No. 1 of the German Income Tax Act (e.g. lawyers, tax advisors, engineers, architects, doctors etc.).

### VAT rates and exemptions

There are two rates of VAT that are applied to goods and services in Germany; the standard rate and the reduced rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are, under certain circumstances, unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost. In relation to VAT exempt supplies, the supplier may opt for taxation under specific circumstances.

### Import

Most goods imported into Germany from outside the EU are subject to import VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

It is possible, subject to conditions, to defer the payment of the VAT until the 16th day of the month following the import. Taxpayers are entitled to the deduction of import VAT in the VAT declaration period, in which the goods are imported. Since nearly all imports are processed via the electronic customs procedure called ATLAS, a print out from the customs will suffice to recover the import VAT.

The person liable for customs duty on importation is also liable for VAT on importation. This is the person in whose name customs clearance has been applied for. The declarant may therefore be the owner, the beneficial owner or any person who is in possession of the goods at the time of entry into Germany. Only commercial transporters may apply for clearance on behalf of another person, who is not in possession of the goods, i.e. the supplier or purchaser of the goods.

## Is there a registration limit for the tax?

### General rule

Generally a 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT.

### Small business rule

If the value of its annual taxable supplies in Germany did not exceed €17,500 in the preceding calendar year and is not expected to exceed €50,000 in the current calendar year and thus the 'person' is to be considered as a small entrepreneur, an obligation to register for VAT does not exist. The privilege for the small entrepreneurs only applies for businesses situated in Germany. A business can register on a voluntary basis even if the registration limit has not been exceeded. The effect of the voluntary registration is an obligation to retain VAT on all supplies and services for the next five years.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

### VAT group

In Germany there are no typical 'Group registration' like in the UK. However, in case a corporation is integrated into a business from a fiscal, economic and organisational point of view (so called *Organschaft*), it is not independent and has to comply with the parent's directions. Effect is that both companies are taxed as one. Transactions between group members are not subject to VAT. Solely the controlling enterprise is taxed.

### E-Services

For the e-services scheme, EU VAT can be registered and accounted for in one EU member state. Non-EU entities providing electronic services to non-entrepreneurs in the EU could register in Germany, if they are not registered in another EU member state. They have the option to file the periodical VAT-forms within 20 days of the period end of a quarter year. Before starting the business you have to announce your choice to the Bundeszentralamt für Steuern. The VAT-forms have to be filed electronically. If the non EU entity chooses to register and to file the VAT-forms in Germany, there is no need to register anywhere else in the EU in connection with electronic services. The periodical VAT-forms have to be made for the electronic services provided all over the EU.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

Since 1 January 2015: If EU entities providing electronic services to non-entrepreneurs in Germany they are not committed to be registered in Germany; if they are registered in another EU member state and provide electronic services (so called mini-one-stop-shop (MOSS)). German VAT payers, who use the MOSS have to file the periodical VAT-forms within 20 days of the period end of a quarter year and have to submit the VAT-forms electronically to the tax authorities (ie Germany: Bundeszentralamt für Steuern).

## Does the same registration limit apply to non-established businesses?

### General rule

The normal VAT registration limit does not apply to businesses who are not established in Germany, but for the purposes of the tax, are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in Germany, irrespective of the level of turnover.

### Intra-Community acquisition

In case of intra-Community acquisitions, if the volume of the intra-Community acquisitions did not exceed €12,500 in the preceding and will not exceed €12,500 in the current calendar year, the purchaser will be treated as a private person, ie the sales are taxed in the country they were sold, if the purchaser is:

- an entrepreneur, who performs only tax exempt sales
- a small entrepreneur.

### Distance sales

Registration for VAT in Germany may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. Germany has adopted an annual threshold of €100,000.

Distance sales from another EU country to non-taxable persons in Germany will be subject to VAT at the appropriate rate in the suppliers country. However, once the value of those distance sales to Germany exceeds the threshold of €100,000:

- the supplier becomes liable to register for VAT in Germany
- Germany becomes the place of supply
- any further sales to customers in Germany are subject to German VAT.

Suppliers can choose to make Germany the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

### Does a non-established business need to appoint a fiscal representative in order to register?

A new-established business is allowed to appoint a fiscal representative but does not have to.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

### How often do returns have to be submitted?

#### Monthly VAT return

As a general rule, VAT returns have to be filed quarterly. As an exception, VAT returns have to be filed monthly (if certain thresholds are met) or yearly.

Late filing of VAT returns may result in additional assessments and penalties. The payment must be received by the VAT authorities on time. If no payment has been received on time, late payment surcharges will be fixed.

Returns are normally prepared for a one month period. They are due for submission within ten days of the period end. The period of ten days can be extended on application for another month if prepaying 1/11 of VAT of previous calendar year (will be repaid in the December return). The filing of VAT returns should only take place electronically. The electronic VAT return has to be prepared on the basis of special software, which is available from the tax authorities.

If the VAT return for the previous calendar year does not exceed €7,500, then the VAT return generally must be prepared on a three month period (calendar quarter). They are due for submission within ten days of the periods end. The period of ten days can be extended on application for another month.

If the VAT amount for the previous calendar year does not exceed €1,000, the taxable person must then only submit an annual VAT return.

In case of new-registered companies the VAT returns have to be prepared monthly in the first two years, notwithstanding what the real VAT amount is.

### Annual VAT return

Generally annual VAT returns must be submitted to the competent local tax office by 31 May of the following calendar year. However, for taxable persons who have appointed a tax advisor the deadline for submitting is in general automatically extended to 31 December of the following calendar year.

### Are penalties imposed for the late submission of returns/payment of tax?

VAT returns which are filed late can be fined up to 10% of the tax finally assessed (maximum €25,000).

Late payments are subject to a surcharge of 1% of the tax to be paid for every month during the period the delay continues.

Interest is due from the beginning of the fifteenth month after the end of the calendar year in which the taxable event occurred. The interest is calculated at 0.5% per month. In cases of tax evasion additional interest is possible from the beginning.

Further late or non-payments are seen as offences which could be punished up to €100,000 and in serious cases a higher fine at the discretion of the court or imprisonment of up to ten years. Penalties can be appealed if there is reasonable excuse.

If a tax return is found to be incorrect it must be corrected immediately by filing an amended tax return. Penalties may arise according the general rules (see above).

EC sales lists which are submitted late can be fined up to 5,000 per declaration. In addition this could be seen as an offence punished up to €5,000. Finally the Federal tax office could fix fines to force the taxpayer to submit the forms up to €25,000.

If an Intrastat report is not filed or filed late a penalty of up to €5,000 per declaration can be implemented.

### Are any other declarations required?

Businesses that are registered for VAT in Germany, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

Generally, where the value of goods supplied to businesses in other EU member states exceeds €50,000 in the current or four previous quarters, the ESLs must be submitted each calendar month. Otherwise the document for goods is submitted for each calendar quarter.

ESLs for services should be submitted for each calendar quarter.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold of 500,000 respectively 800,000 (for arrivals as of 1/1/2016), a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis if such transactions incur.

### Are penalties imposed for the late submission of returns/payment of tax?

Yes. A range of penalties can be imposed where businesses do not comply with general rules.

Penalties can also be applied for example where the business has failed to maintain adequate records or provide information.

Criminal proceedings may be brought in the case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Germany?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.



### VAT-refund procedure for European-businesses

The EU cross border refund scheme is available in all EU member states, and enables a business established in an EU country to recover VAT incurred in another member state.

To be eligible to make a claim, the claimant must be a taxable person established in an EU member state other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority in the country of establishment of the claimant.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

### VAT-refund procedure for non-European-business

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Germany or purchases of goods and services used in Germany. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- they were not registered or liable to be registered for VAT in Germany
- they were not established in any EU country
- they made no supplies of goods and services in Germany
- where they are established in a third country having a comparable system of turnover taxes, that country provides reciprocal arrangements for refunds to be made to taxable persons established in Germany.

Claim forms have to be submitted to the Bundeszentralamt für Steuern no later than six months from the end of the relevant designated year, ie by 30 June each year.

### What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the recipients VAT ID Number (in case of specific cross border supplies)
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer and the quantity of goods or the extent of the services
- the tax base with regard to each tax rate applicable or tax exemption
- the rate of any cash discount
- the tax rate
- the total amount of VAT charged
- indication of the application of the reverse-charge-mechanism (if applicable).

Where a VAT invoice includes exempt goods or services, it must show the reason for the tax exemption.

Where a business makes a sale of goods or services for €150 or less including VAT, a simplified VAT invoice can be issued.

VAT invoices can be issued, received and stored in an electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Greece

## Indirect tax snapshot

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| <i>What are the current rate(s) of VAT?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 23% for most goods and services.</li> <li>• Reduced rate of 13% for some goods and services including hotels and sales of unprocessed food, including bread.</li> <li>• Super reduced rate of 6% applies to medicines, books, newspapers and theaters.</li> </ul>                |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Greece. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | No threshold exists for taxable persons. However, small businesses, having a turnover up to €10,000 may be exempted from VAT registration.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No. There is no registration limit for businesses that are not established in Greece and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU), eg mail order and internet sales. |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | In certain circumstances, a non-established person may be directed by the tax authority to appoint a fiscal representative. The appointment of fiscal representative is not obligatory for taxable persons established in the EU.  |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit VAT returns covering three month accounting periods. Returns are submitted on a monthly basis for S.A., Ltd, and taxable persons keeping double entry books.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>  | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.  |



|   |  |
|---|--|
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.   |
| <i>Deduction of VAT</i>   | No deduction applies for products such as tobacco, alcohol, private cars of a capacity up to 9 seats and their fuel etc. |

## What is the principal indirect tax?

Value Added Tax (VAT) is the main indirect tax in France.

Value Added Tax (VAT) is the main type of indirect taxation in Greece and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Greek VAT if the following conditions are met:

- it is a supply of goods or services. Although the term 'supply' is not extensively defined in the legislation, it has a broad interpretation.
- it takes place in Greece
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Greece, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are three rates of VAT that are applied to goods and services in the Greece; the standard rate, the reduced rate, and the super reduced rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Greece from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT in Greece. Since 2014, an exemption option may apply if the taxable person does not exceed a turnover of €10,000 per year.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities is very different.

VAT groups are not provided in the Greek VAT Code.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses who are not established in Greece, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in Greece, irrespective of the level of turnover.

Registration for VAT in Greece may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. Greece has adopted an annual threshold of €35,000 which equates to the upper threshold in euros.

Distance sales from another EU country to non-taxable persons in Greece will be subject to VAT at the appropriate rate in the suppliers' country. However, once the value of those distance sales to Greece exceeds the Greek threshold of €35,000:

- the supplier becomes liable to register for VAT in the Greece
- Greece becomes the place of supply
- any further sales to customers in Greece are subject to Greek VAT.

Suppliers can choose to make Greece the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (i.e. where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (i.e. where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in Greece may direct a person to appoint a VAT representative to act on his behalf for VAT purposes where the person:

- a) is a taxable person or makes taxable supplies or acquires goods in Greece from one or more other EU countries
- b) is not established, and does not have a 'fixed establishment' in the Greece
- c) is established in a country or territory which is not an EU country (or part of such a country).

## How often do returns have to be submitted?

VAT returns cover an accounting period of three months, ending on the last day of a calendar month for taxable persons having single entry books. For taxable persons keeping double entry books, such as SA and Ltd, accounting periods are monthly.

All VAT returns have to be submitted within 30 days of the end of the relevant accounting period, together with any tax due. All returns and payments have to be submitted electronically.

## Are penalties imposed for the late submission of returns/payment of tax?

A penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

The penalty is €250 per return for persons keeping single entry books and €500 per return for persons keeping double entry books. A penalty of €100 per return applies in case no tax arises from the return. Also an interest of 0.73% per month is calculated on the amount of tax.

## Are any other declarations required?

Businesses that are registered for VAT in Greece, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

Generally, where the taxable persons keep double entry books the ESLs must be submitted each calendar month. Otherwise the document is submitted for each calendar quarter.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Administrative penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Greece?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member States, and enables a business established in an EU country to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member State from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member State of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Greece or purchases of goods and services used in Greece. The scheme is available to any person carrying on a business established in a third country ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in Greece
- he was not established in any EU country
- he made no supplies of goods and services in Greece other than certain specified exceptions
- where he is established in a third country having a comparable system of turnover taxes, unless the Greek tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in Greece.



## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in Euros.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a business makes retail sales a simplified receipt can be issued.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Hungary

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- Standard rate of 27% for most goods and services.
- Reduced rate of 18% for accommodation service and for some food products (milk and bakery products).
- Lower reduced rate of 5% for some medical products, books and for district-heating, some meat products and some performance services.

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

VAT is an indirect tax paid by the end user on the use of goods and services. This is built on the presumption that VAT is charged in every phase of production and trade, but the user is entitled to allow for it in the VAT due. Only the VAT of costs incurred by the taxpayers for the purpose of VAT taxable business activities can be deducted.

Under the Hungarian VAT system, VAT is charged on goods and services supplied by taxpayers in Hungary (actual or deemed), goods purchased from the European Union (EU) and importation of goods.

*Is there a registration limit for the tax?*

There is no threshold in Hungary for registration, ie if a person or entity makes taxable supplies in Hungary, it has to register at the Hungarian tax authority and submit declarations.

*Does the same registration limit apply to non-established businesses?*

Businesses who are not established in Hungary, but for the purposes of the tax are making taxable supplies there, those businesses will need to register for VAT as soon as they commence trading in Hungary, irrespective of the level of turnover.

*Does a non-established person need to appoint a fiscal representative in order to register?*

Foreigners from non-EU countries are obliged to appoint fiscal representatives. Foreigners from EU countries can appoint fiscal representatives for their Hungarian tax issues.

*How often do returns have to be submitted?*

As a general rule, VAT returns are filed quarterly. As an exception, VAT returns can be filed monthly or yearly, based on the data of the second year preceding the actual year. Taxpayers with a total cumulated VAT balance reaching a positive HUF 1,000,000 in the current year are liable to file monthly returns. Newly registered taxpayers need to submit the returns monthly in their first two years.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return or the corresponding payment is submitted late a penalty and fine can be imposed.



*Are any other declarations required?*

Yes. Separated declarations have to be submitted in connection with goods moving to or from the EU and about the services provided and bought within EU. Additional declaration (domestic sales list) has to be submitted about the invoices between Hungarian taxpayers, if the VAT amount in the invoice is HUF 1,000,000 or more.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions, up to 200% of the unpaid tax.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, it exists for taxpayers within EU. For taxpayers from non-EU countries it is based on reciprocity.

## What is the principal indirect tax?

The act on VAT prescribes that VAT is to be paid on the goods and services supplied by taxpayers in Hungary, on acquisitions from within the European Union (EU) and on the importation of goods.

The main elements of the VAT liability are as follows:

- there must be a supply
- the transaction must take place inland (actual or deemed)
- the transaction must be VAT taxable (subject to a normal or reduced VAT rate)
- there must be a supply by taxpayers (taxpayers are persons performing business activities on their own accounts)
- the transaction must take place within the framework of business activities.

### VAT on imports

In Hungary, import VAT is to be paid on product entries from a so-called 'third countries' outside the territory of the EU. For product entries from other EU member states the import rules do not apply but the rules for intra-community entries are applicable.

VAT liability occurs in Hungary, if:

- the goods are imported to the territory of Hungary directly from a third country
- after imported to the territory of the community, the goods are put into free circulation in Hungary.

## Is there a registration limit for the tax?

There is no threshold in Hungary for registration, ie if a person or entity makes taxable supplies in Hungary, it has to register at the Hungarian tax authority and submit declarations.

Taxpayers with their head office in Hungary are entitled to opt to be tax exempt annually for the given tax year, provided that their revenue is below a certain threshold. This threshold is HUF 6,000,000.

Companies of other member states supplying goods to non-VAT registered Hungarian private individuals or entities are not obliged to register in Hungary (distance sale). The requirement that the company arranges for the goods to be delivered to its buyer in Hungary and the total value of these sales to Hungarian customers does not exceed €35,000 in the given year and in the preceding year. If the sales of the given company exceed €35,000 in a calendar year, the foreign company has to register in Hungary and to charge Hungarian VAT on these transactions.

Even if the threshold is not exceeded, the foreign supplier can opt to register, however, the decision is binding for two calendar years. The procedure for distance sales also applies in the opposite situation, in which a trader sells goods from Hungary to private individuals or non-taxable entities who resides in other EU member states.

## Does the same registration limit apply to non-established businesses?

Businesses who are not established in Hungary, but for the purposes of the tax are making taxable supplies there, those businesses will need to register for VAT as soon as they commence trading in Hungary, irrespective of the level of turnover.

## Does a non-established business need to appoint a fiscal representative in order to register?

Foreigners from non-EU countries are obliged to appoint fiscal representatives. Foreigners from EU countries can appoint fiscal representatives for their Hungarian tax issues.

## How often do returns have to be submitted?

As a general rule, VAT returns are filed quarterly. As an exception, VAT returns can be filed monthly or yearly, based on the data of the second year preceding the actual year. Taxpayers with a total VAT balance reaching a positive HUF 1,000,000 in the reference year are liable to file monthly returns. Taxpayers with a total VAT balance below HUF 250,000 in the reference year and sale income is under 50 million HUF and having no IC tax number are to file annual VAT returns (regardless of the algebraic sign).

Taxpayers with EU tax number can submit their VAT returns monthly or quarterly only. VAT groups can submit their VAT returns monthly. Companies in the year of registration and the next year have to submit the VAT returns monthly (calendar month).

Taxpayers liable to quarterly returns may apply for monthly returns and taxpayers liable to annual returns may apply for the quarterly return frequency. The Tax Authority permits the frequency of the returns to be higher than stipulated by law for a given tax year. The permission is generally granted if the VAT rate applicable to the supplies of the taxpayer is lower than the VAT applicable to acquisitions or if an investment is implemented by the taxpayer.

Taxpayers liable to annual returns are obliged to switch to quarterly returns during the year if the threshold of HUF 250,000 or sale income of HUF 50 million is reached or tax authorities given IC tax number for them. Taxpayers with their VAT balance reaching a positive HUF 1,000,000 are obliged to switch to monthly returns from the first month following the quarter (regardless of whether they were liable to annual or quarterly returns).

The amount of VAT computed in a currency other than HUF is to be translated to HUF at the selling exchange rate of a Hungarian trade bank or at the exchange rate of the Hungarian National Bank or European Central Bank (ECB). If the taxpayer wishes to apply the exchange rate of the Hungarian National Bank (MNB) or European Central Bank, may choose it, if it declares its choice previously to the tax authority.

The deadline to submit the VAT return is the 20th day of the month following the return period. The VAT return is to be filed on the VY65 form from the tax authority.

## Quarterly VAT returns

Most entrepreneurs/taxable persons are required to submit VAT returns each calendar quarter. VAT returns must be filed and VAT amounts paid by 20th of the month following the tax period.

## Monthly VAT returns

Monthly filing required when the VAT amount payable reaching a positive HUF 1,000,000 in the second preceding year or within the actual year. Newly registered taxpayers need to submit the returns monthly in their first two years.

## Annual VAT returns

Entrepreneurs/taxable persons whose VAT balance does not exceed HUF 250,000 on a yearly basis in the second preceding year and sale income is under 50 million HUF and having no IC tax number are to submit an annual VAT return.

## Importers

VAT is levied on importation of goods into the territory of Hungary. As a general rule, every person importing goods will be responsible to pay VAT to the customs authorities. Taxpayers are entitled to the deduction of import VAT in the VAT declaration period in which the payment is made. It is a prerequisite for deduction that the taxpayer should have the certificate issued by the customs authority.

Large trading companies can apply for a permission to use the reverse charge system. Taxpayers with permission of the customs authority are entitled to recover VAT paid on the importation of goods acquired for the purpose of business activities in the same VAT declaration in which the input VAT is shown. The permission is valid for one year.

The prerequisite of tax recovery is that the taxpayer should have the resolution on putting the goods into free circulation as well as documents authentically certifying the data necessary for the determination of the VAT amount on the import of goods.

Should an indirect customs representative be appointed by the taxpayer to act in the import procedure, the taxpayer is entitled to recover VAT paid on behalf of him by the indirect customs representative.

The indirect customs representative is entitled to recover VAT on importation, if they:

- are a taxpayer and meets the personal conditions of tax recovery
- have the resolution on putting the goods into free circulation
- have the documents necessary for the determination of the VAT amount
- have paid the input VAT.



## Are penalties imposed for the late submission of returns/payment of tax?

### Late or missed returns

For non-natural persons a default fine up to HUF 500,000 can be levied (HUF 200,000 for private individuals as taxpayers) if the declaration obligation is not fulfilled or fulfilled with delays. The tax authority also sets a deadline for the elimination of the default. Should this deadline be not adhered to, the duplicate of the original fine is levied as default fee.

### Incorrect returns

In case of self-assessment calculations, mistakes or other similar misprints are corrected officially by the tax authority. Should this correction affect the amount of tax liability or tax reclaim, the taxpayer is notified within 30 days. For returns filed with errors, for non-natural persons a default fine of up to HUF 100,000 (private individuals up to HUF 20,000) can be levied.

### Late payment of tax

In case of the delayed payment of taxes a late fee is to be paid for the days of delay, but for a maximum of three years. The daily late fee amounts to the duplicate of the official National Bank Prime Rate divided by 365 (calculated with the interest rate valid in the period of delay and not the one valid when charged).

## Are any other declarations required?

EC Sales Lists (ECLs) are to be filed by those having EU VAT numbers to the tax authority. The reporting liability is monthly or quarterly, in accordance with the VAT return period. The taxpayer has to file the ECLs monthly instead of quarterly if the EC purchases or sales in the current quarter are more than €50,000. In this case in the following year the taxpayer has to file the ECLs monthly.

Recapitulative statements (return yyA60) includes the net value of the turnover in the given period for each partner taxpayer in case of Intra-community supplies and, Intra-community acquisitions and services provided and bought within EU.

In addition to the recapitulative statements, those obliged are to file the following special 'yy86' declaration to the tax authority.

yy86: VAT return for special customers and legal entities as non-taxpayers liable to pay taxes on the Intra-community acquisitions and for taxpayers without an EU VAT number on the Intra-community acquisition of new means of transport not regarded as passenger cars.

The ordinary tax return contains the declaration including:

- data supply on new means of transport supplied by taxpayers within the community to customers of another member state without an EU VAT number
- the invoices between Hungarian taxpayers, if
  - the VAT in the invoice is more than HUF 1,000,000.
  - cumulated VAT charged by the same supplier is more than HUF 1,000,000.

The VAT yy86 returns are to be filed by the 20th day of the month following the month when the tax liability occurred.

## Are penalties imposed for the late submission of returns/payment of tax?

Fines for errors detected during the Tax Authority inspection or during the inspection prior to VAT return (VAT shortfall or illegitimate VAT reclaim) may amount to 50% of the tax difference detected as debiting the taxpayer. If the tax difference is in connection with fraud the penalty is 200% of the tax difference.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Hungary?

Hungarian VAT can be reclaimed by taxpayers registered in another member state not having head offices or permanent establishments in Hungary and not supplying goods or services inland except for the transportation of goods in connection with the international movement of goods and related services as well as services where VAT is to be paid by the customer according to the reverse charge procedure.

Taxpayers registered abroad are entitled to tax reclaim to the same extent as taxpayers registered inland are entitled to tax recovery. Tax on goods and services acquired by taxpayers registered abroad by means of their branch offices established inland cannot be reclaimed (in this case branch offices may assert their right of recovery within the framework of the procedure for domestic taxpayers). Furthermore, VAT on goods and services acquired by foreign taxpayers on their own accounts but for the purpose of others cannot be reclaimed.

Taxpayers established in a member state file Hungarian VAT refund claims with the tax authority of the country of registration in accordance with the regulations of Council Directive 2008/9/EC.

VAT on invoices issued in the given year may be reclaimed from 1 January to 30 September of the calendar year following the given year (requests are to be filed by this date and non-adherence to this deadline will lead to the forfeiture of rights). In contrast with the main rule, reclaim may be requested for a three-month-period within the given year, in the month following the quarter if the request reaches or exceeds €400.

Taxpayers can file refund claim maximum five times for a given year.

The Hungarian VAT for taxpayers from non-EU countries is recoverable based on reciprocity only. Reciprocity countries are Switzerland and Liechtenstein. The refunding request of non-EU taxpayers has to arrive to the Hungarian tax authority in paper form until 30 September of the calendar year following the given year.

If invoices are made out in a foreign currency, the amount of the recharged value added tax is also to be indicated in HUF in the invoice.

Regarding the exchange rate applicable for the currency translation, for this purpose the rate of the National Bank of Hungary (MNB), European Central Bank (ECB) or the selling rate of any resident (Hungarian) bank (credit institution) holding a foreign exchange licence in Hungary. If a taxpayer opts for the application of the MNB or ECB rate, he has to report this fact to the tax authority, and is not allowed to deviate from that until the end of the calendar year following the year when the selection is made.

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For further information on indirect tax in Hungary please contact:

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## What information must a VAT invoice show?

A VAT invoice must show:

- the date of issue of the invoice
- the sequential number of the invoice (with a continuous numbering)
- the tax identification number of the taxable person supplying the goods, or services
- the tax identification number of the customer, if the customer is liable for the tax payable
- the name and address of the taxable person supplying the goods or services, and the name and address of its customer
- the designation of the goods (services) supplied
- the date of fulfilment, if it differs from the date of issue of the invoice
- the taxable amount, the unit price exclusive tax of the goods supplied or services rendered and any applied discounts or rebates, if they are not included in the unit price
- the tax rate applied
- the amount of the tax charged
- the VAT number of the customer if the tax charged reaches or exceeds HUF 1 million.



# Iceland

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 24% for most goods and services.</li> <li>• Reduced rate of 11% for some goods and services including most food, accommodation, books and magazines and etc.</li> <li>• Zero-rated work and services include health care services, education services, operation of museums, charity work and etc.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Iceland. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>   | Yes. It relates to the annual turnover of taxable transactions in Iceland, and once the limit has (or will be) reached it is necessary to register.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes. There is a same registration limit for businesses that are not established in Iceland and they will need to register as soon as they start to make taxable transactions.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In certain circumstances, a non-established person may be directed by Icelandic tax authority to appoint a fiscal representative.   |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit VAT returns covering two month accounting periods. Returns can also be submitted on a year basis.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty will be imposed.  |
| <i>Are any other declarations required?</i>   | No.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.  |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Iceland.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Icelandic VAT if the following conditions are met:

- it is a sale of all goods or services that is not specifically exempt in the law
- it takes place in Iceland
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Iceland, or has a liability to become registered.

There are three rates of VAT that are applied to goods and services in Iceland the standard rate, the reduced rate, and the zero rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Iceland are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

When you import good you have to pay both VAT and custom duty. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Iceland exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

Two or more corporate bodies can be registered together as a VAT group if:

- the parent company owns at least 90% of the daughter company
- the companies have the same accounting year
- the parent company applies for it and is in its name
- the registration is for minimum of five years.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members (including former members) are jointly and severally liable for the VAT debt of the group during the period of their membership.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.



### Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does apply to businesses who are not established in Iceland, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT not later than eight days before they commence trading in Iceland, irrespective of the level of turnover.

### Does a non-established business need to appoint a fiscal representative in order to register?

A non-established business need to appoint a fiscal representative to act on his behalf for VAT purposes where the person:

- is a taxable person or makes taxable supplies or acquires goods in Iceland
- is not established, and does not have a 'fixed establishment' in Iceland.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

According to VAT law no. 50/1988, paragraph 10, section D: D. Digitally delivered services; the service is always considered utilized at the buyer's residence or place of operation.

### How often do returns have to be submitted?

VAT returns normally cover an accounting period of two months, ending on the last day of a calendar month.

Businesses that are in a net repayment position (because of the nature of their activities) and those incurring exceptionally high expenditure (eg as a result of set up costs or a capital project) can apply to submit returns on a monthly basis to improve cash flow. If the annual turnover is less than 3,000,000 ISK the accounting period is the calendar year.

Exceptions from the general rule:

- agriculture has an accounting period of six months
- fish processing companies can apply for a weekly refund of input VAT of fish products.

All VAT returns have to be submitted within one month and 5 days of the end of the relevant accounting period, together with any tax due. As all returns have to be submitted electronically.

### Are penalties imposed for the late submission of returns/payment of tax?

A default penalty will be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date. The penalty is 1% per day for maximum of ten days plus interest. If a return is not submitted on time the VAT will be estimated by the tax authority. The estimation will be cancelled when a return is submitted and an extra surcharge of 5,000 ISK will be charged. If the accounting period is the calendar year and estimation is made the accounting period will be changed to two months regardless of the turnover. If estimation has been made for two consecutive accounting periods the tax authority can remove the VAT registration and the business has to register again with accounting period of one month.

## Are any other declarations required?

No.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Penalties and interest will be applied for errors and omissions made on tax returns (the same percentages as in no 6 are valid here). Penalties can also be applied where the business has failed to maintain adequate records, provide information, or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Iceland?

Yes, it may be possible to reclaim the VAT input incurred in certain circumstances.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential and pre-printed
- the seller's name and social security number
- the seller's VAT registration number
- the invoice date
- the customer's name and social security number
- type of transaction, quantity, unit price and total price
- the total amount of VAT charged expressed in ISK
- if the invoice consists of 24% and 11% VAT the invoice must show the total of those values separately.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately

Where a business makes retail sales and makes a sale of goods or services for 6,000 ISK or less including VAT, a simplified VAT invoice can be issued.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. If a firm uses an electronic computer system that the tax authority has approved the invoice number does not need to be pre-printed.

### Further information

It is necessary to return a yearly tax report to the tax authority in addition to the VAT returns.

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# Ireland

## Indirect tax snapshot

|  |   |
|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• Standard rate of 23% for most goods and services.</li> <li>• Reduced rates include 13.5% (building services), 9% (tourism related) and 4.8% (livestock).</li> <li>• Zero-rated goods and services include certain foods/drinks, oral medicines and children's clothes.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in the Republic of Ireland (ROI). It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the annual turnover of taxable transactions in the ROI, and once the limit has (or is likely to be) reached, it is necessary to register. The thresholds are €75,000 (sale of goods) and €37,500 (supply of services).   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No. There is no registration limit for businesses that are not established in the ROI and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU), eg internet sales.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | No.   |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit VAT returns on a bi-monthly basis, eg January/February. However, the Irish Revenue may determine that returns can be submitted on a quarterly, six monthly or an annual basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return or the corresponding payment is submitted late, interest and a penalty can be imposed.   |
| <i>Are any other declarations required?</i>  | Yes. A detailed annual VAT return must be submitted. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU (VIES returns). Declarations also have to be submitted in certain circumstances in connection with goods moving to or from other countries in the EU (Intrastat). |



|   |   |
|---|---|
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions (EU refund claims and 13th directive claims).   |
| <i>Deduction of VAT</i>   | VAT incurred on business entertainment, food and drink or other personal services for the business or staff, hotel accommodation (other than for a qualifying conference), petrol and the purchase, hire or leasing of cars* is not generally deductible.<br>*20% of VAT incurred allowable in certain circumstances. |

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Republic of Ireland and in other European Union (EU) countries.

VAT is a tax on consumer spending. It is collected by VAT-registered traders on their supplies of goods and services affected within the state, for consideration, to their customers. Generally, each such trader in the chain of supply from manufacturer through to retailer charges VAT on his/her sales and is entitled to deduct from this amount the VAT paid on his/her purchases.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Irish VAT if the following conditions are met:

- it is a supply of goods or services. Although the term ‘supply’ is not defined in the legislation, it has a broad interpretation.
- it takes place in Ireland
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in the RoI, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are five rates of VAT that are applied to goods and services in Ireland; the standard rate (23%), the reduced rate (13.5%), the second reduced rate (9%), the rate for livestock (4.8%) and the zero rate. In addition, some goods and services are exempt from VAT.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a ‘real’ cost.

Most goods imported into Ireland from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in ‘free circulation’ and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of business must register for VAT if the value of its taxable supplies in Ireland exceeds the annual registration limits, or is expected to exceed the annual limits in the near future.

A business must register for VAT as follows:

1. The general turnover threshold for the supply of goods is €75,000; however persons supplying goods liable at the reduced or standard rates which they have manufactured or produced from zero-rated materials must register if their turnover is €37,500 or more.
2. The general turnover threshold for the supply of services is €37,500; however for persons supplying both goods and services where 90% or more of the turnover is derived from supplies of goods (other than of the kind referred to in the above paragraph) then the threshold for goods applies.
3. Intra-community acquisitions of goods for business purposes by a person in the Member State exceed €41,000.
4. Distance sales of goods by a foreign trader to non-registered customers in the Member State exceed €35,000.
5. Persons not established in the Member State but supplying goods and services here must register regardless of the level of turnover.
6. Persons receiving services from abroad for business purposes in the Member State must register regardless of the level of turnover.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of their business activities will be covered by the registration – even if the natures of some of those activities are very different.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

Businesses that are not established in Ireland cannot avail of the normal VAT registration thresholds. As soon as these businesses commence trading, they will need to register for VAT in Ireland, irrespective of the level of turnover.

Where a non-established EU based business is involved with distance selling, registration for VAT in Ireland may also be required. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. Ireland has adopted the minimum annual threshold of €35,000.

Distance sales from another EU country to non-taxable persons in Ireland will be subject to VAT at the appropriate rate in the supplier's country. However, once the value of those distance sales to Ireland exceeds the €35,000 threshold:

- the supplier becomes liable to register for VAT in Ireland
- Ireland becomes the place of supply
- any further sales to customers in Ireland are subject to Irish VAT at the appropriate rate.

Suppliers can choose to register for VAT voluntarily in Ireland before the threshold is reached.



## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Does a non-established business need to appoint a fiscal representative in order to register?

It is not necessary to appoint a VAT representative to act on behalf of a non-established business for VAT purposes but an option to do so is available.

## How often do returns have to be submitted?

Most businesses are required to submit VAT returns on a bi-monthly basis. However, the Irish Revenue may agree that returns can be submitted on a quarterly or 6 monthly basis if the level of VAT payment is low. Businesses that are in a constant repayment position (because of the nature of their activities) can apply to submit returns on a monthly basis to improve cash flow.

All VAT returns have to be submitted on the 23rd of the following Month (eg the return for the January/February period must be filed by 23 March) together with payment of any tax due. All returns and payments have to be submitted electronically.

## Are penalties imposed for the late submission of returns/payment of tax?

A penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date. In practice, interest is generally charged (rather than a penalty).

## Are any other declarations required?

### VIES

Traders who sell goods or supply services to VAT registered traders in other EU Member States must complete VIES returns (on a monthly or quarterly basis) and submit them electronically. There are no minimum thresholds involved and all such supplies must be reported.

### Intrastat

Traders that acquire goods from other EU member states exceeding €500,000 annually and/or dispatch goods to other EU Member States exceeding €635,000 annually must complete the detailed monthly Intrastat return. In addition, all traders involved with intra EU transactions must complete boxes E1 and E2 (goods) and boxes ES1 and ES2 (services) on their VAT 3 returns.

## Are penalties imposed in other circumstances

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns (particularly when returns are being audited by the revenue commissioners, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or make repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Republic of Ireland?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU (called a European VAT Refund (EVR)) and another for businesses established outside the EU (13th directive claims).

The EU cross border refund scheme (EVR) is available in all EU Member States, and enables a business established in an EU country to recover VAT incurred in another Member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU Member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered or liable, or eligible to be registered in the Member State from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the Member State of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically by the claimant to the tax authority in the claimant's own country the tax authority transmits the claim to the VAT authority of the country from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

A person who is engaged in business outside the EU (and who is not engaged in business in Ireland) may claim repayment of Irish VAT on most business purchases in Ireland using a 13th directive claim. Currently, the main conditions governing repayment are:

- Where the claimant is carrying on business outside of the European Union s/he must provide written proof of economic activity issued by the competent authority of his/her own State
- The goods/services giving rise to the claim must be goods/services in respect of which tax would be deductible if the claimant's business was carried on in Ireland, and must not include goods for supply within the State or motor vehicles for hiring out for utilisation within the State

- The business for which the goods/services were purchased must be a business which would be taxable if carried on in Ireland
- The original supplier invoices must be submitted with the claim form.

## What information must a VAT invoice show?

A VAT invoice must show:

- the invoice date
- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- if the supply relates to a supply to a person registered for VAT in another EU Member State, the VAT identification number of the person to whom the supply was made and an indication that a reverse charge applies
- a description sufficient to identify the goods or services supplied to the customer
- any discounts or price reductions not included in the unit price
- the total amount of VAT charged expressed in Euro.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Simplified invoices may be issued where the total value of the sale is €100 or less.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Italy

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 22% – most of goods and services standard rated unless defined to be reduced rated or exempted.
- Reduced rate of 10% – applying to food, hotel services and shops, drugs, etc.
- Reduced rate of 5% – applying to medical, welfare and educational services rendered by social well-being cooperatives towards senior citizens, drugs-addicted, persons affected by AIDS, disables, refugees, imprisoned persons, etc.
- Reduced rate of 4% – usually, applying to consumer staples, houses, fertilizers, company canteens, etc.
- Zero rated supplies – export sales and similar transactions, international services and intra-EU sales.
- Exempt supplies – VAT-exempt transactions generally comprise services delivery. Some of them (financial operations, bets) are VAT-exempt for practical reasons, as they are not fit for VAT application. Others refer to the supply of special public interest services (healthcare, school etc.) so the exemption is for more favourable conditions for the end-user.

### *Are there any confirmed or anticipated changes to these rates?*

The Stability Law for 2016 stated the following increases of the VAT rates:

- The standard rate will be increased to 24% starting from 2017 and to 25% starting from 2018
- The reduced VAT rate will be increased to 13% starting from 2017.

Such increases will enter into force whether no other measures will be implemented to generate an increase of State revenues or a reduction of Treasury costs.

### *What is the principal indirect tax?*

Imposta sul Valore Aggiunto (IVA) is the principal indirect tax in Italy. It is a value added tax on consumption of goods and services, that is levied at each stage of the production and distribution.

### *Is there a registration limit for the tax?*

No. Any legal or physical person who carries on a business or undertakes an artistic or professional activity independently from an employer, or who sets up a permanent establishment in Italy, must register for VAT before commencing the activity (i.e. before performing any supply and/or purchase of goods and/or services).

### *Does the same registration limit apply to non-established businesses?*

Yes, with the exception of distance selling rules.



*Does a non-established person need to appoint a fiscal representative in order to register?*

European Union (EU) taxpayers, without a permanent establishment in Italy, can register for VAT in the two following alternative ways:

- via the direct identification procedure (as per art. 35-ter of the VAT Act); via the appointment of an Italian resident as its VAT representative (as per art. 17, para 3 of the VAT Act).

A non European Union (EU) taxpayer, without a permanent establishment in Italy, can register for VAT via the appointment of an Italian resident as its VAT representative (as per art. 17, para 3 of the VAT Act) only.

*How often do returns have to be submitted?*

All taxpayers are required to file:

- an annual VAT data communication either electronically or through authorised intermediaries by the end of February following the year the return refers to. It is possible to avoid the filing of the annual VAT data communication, should the annual VAT return be filed by the end of February (this rule will change starting from 2017)
- an annual VAT return either electronically or through authorised intermediaries by the end of September following the year the return refers to (this rule will change starting from 2017).

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If the VAT return, or the payment, is submitted late, penalties apply. The quantification and nature of such penalties depends on the gravity of the omission.

*Are any other declarations required?*

Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.

Furthermore, specific declarations have to be filed to:

- transactions with counterparties resident in tax havens
- all transactions carried on during a calendar year.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

## What is the principal indirect tax?

Imposta sul Valore Aggiunto (IVA) is the principal indirect tax in Italy.

It is a value added tax on consumption of goods and services, that is levied at each stage of the production and distribution. Liability for VAT rests with the person supplying the taxable goods or services or importing goods into Italy.

However, the supplier is allowed to deduct from its VAT liability on sales made the amount of VAT paid and properly invoiced to it in relation to purchases effected by it, or VAT paid by it at importation. The actual burden of the tax is therefore borne by the final consumer.

VAT is chargeable on supplies of goods and services for a consideration made in Italy by a taxpayer acting as such.

The constituent elements of the charging provision are as follows:

- there must be a supply (either of goods or services)
- the supply must be made in Italy rather than elsewhere
- the supply must be a taxable supply (i.e. chargeable to VAT at the standard or reduced rates)
- the supply must be made by a taxpayer (in Italy, a taxpayer is any person carrying on a business, or an artistic or professional activity registered for VAT purposes)
- the supply must be made in the course or furtherance of a business.

In Italy the following categories of VAT rates are applicable:

- standard rate of 22%
- reduced rate of 10%
- reduced rate of 5%
- reduced rate of 4%
- zero rate.

In addition, some goods and services are exempted from the tax. Businesses that make exempt supplies are unable to recover all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.



## Is there a registration limit for the tax?

Any legal or physical person who carries on a business or undertakes an artistic or professional activity independently from an employer, or who sets up a permanent establishment in Italy, must register for VAT, by filing a specific application form with the Italian tax authority. Under certain conditions, simplifications are foreseen for business with a yearly turnover below €30,000. Under certain other conditions, other simplifications are foreseen for business with a yearly turnover between €15,000 and €40,000 (depending on the type of activity carried out).

A penalty may be imposed by Italian tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

As mentioned above any legal or physical person who carries on a business or undertakes an artistic or professional activity independently from an employer, or who sets up a permanent establishment in Italy, must register for VAT, by filing a specific application form with the Italian tax authority. The VAT registration procedure must be completed before commencing the activity (ie before performing any supply and/or purchase of goods and/or services).

With reference to distance sales, if an EU seller carries out distance sale transactions in Italy for an overall annual amount below €35,000, it does not have to apply the VAT in Italy but in the origin country, unless it opts for the VAT taxation in Italy.

The distance sale rule does not apply to the supply of new means of transport or to the supply of goods supplied under a supply and installation contract.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Effective 1 January 2015, article 58 of Directive 2006/112/EC was amended. In line with the EU VAT Law, the Italian VAT rules determining the place of supply of electronically supplied/digital services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers (Extra – EU as well as EU) have the choice to either:

- register for VAT in each Member State where their customers reside
- elect to register under the EU VAT MOSS (VAT Mini One Stop Shop) simplification scheme in an one Member State (where the suppliers are established) to report and pay VAT due on sales of digital services to consumers in the EU.

## Does a non-established business need to appoint a fiscal representative in order to register?

A European Union (EU) taxpayer, without a permanent establishment in Italy, can register for VAT in the two following alternative ways:

- via the direct identification procedure (as per art. 35-ter of the VAT Act)
- via the appointment of an Italian resident as its VAT representative (as per art. 17, para 3 of the VAT Act).

A non European Union (EU) taxpayers, without a permanent establishment in Italy, can register for VAT via the appointment of an Italian resident as its VAT representative (as per art. 17, para 3 of the VAT Act) only.

A foreign business without a permanent establishment in Italy is required to register only if its Italian supplies are towards persons who are not themselves VAT-registered in Italy or are VAT registered but not established in Italy. Foreign businesses making taxable supplies to Italian resident businesses are not requested to VAT register in Italy because, in such circumstances, the Italian purchaser of the goods or services is obliged to account for the VAT on the supplies received under the 'reverse charge' procedure. This is unless the VAT registration is requested for other transactions (ie intra-EU purchases of goods, intra-EU supplies of goods, exports).

## How often do returns have to be submitted?

All taxpayers are required to file either electronically or through authorised intermediaries an annual VAT data communication by the end of February following the year the return refers to. It is possible to avoid the filing of the annual VAT data communication, should the annual VAT return be filed by the end of February following the year the return refers to.

All taxpayers are required to file an annual VAT return either electronically or through authorised intermediaries by the end of September following the year the return refers to.

The annual return permits the final settlement of the taxpayer's VAT payable or receivable. It consists in disclosing the algebraic sum of all the transactions (both sales and purchases) carried out all through a solar year. It permits to establish the turnover and, therefore, whether to benefit from some simplifications for the following year. Finally it usually serves as the basis for the tax authorities' assessments.

Rules pertaining to the aforementioned returns will change from 2017.

No additional regular returns are provided. However, all taxpayers (with some exceptions) are required to determine their VAT position before the tax authorities on either a monthly or a quarterly basis. This is done through preparing on their ledgers a VAT calculation as the difference between VAT on sales and deductible VAT on purchases, and to complying with the regular settlement obligation. Should the taxpayer be in a debt position, they are required to remit to the Treasury the payable VAT. However, should a VAT credit result from the VAT calculation, the VAT receivable is carried forward and offset with VAT debts in the next periodical VAT calculations or, under certain conditions, asked for refund.

Taxpayers with a limited turnover (below €400,000.00 if they provide services or €700,000.00 if they supply goods) can opt for quarterly calculations provided that they increase the VAT amount to be remitted to the Treasury by 1% as interest.

The other taxpayers must determine their VAT obligations through regular computations to be effected on a monthly basis by the 16th day of the following month.

## Are penalties imposed for the late submission of returns/payment of tax?

The main administrative penalties can be summarised as follows:

- failure to submit annual return or submission of return more than 90 days after the deadline, when taxes are owed: penalty between 120% and 240% of the total tax owed with a minimum of €250
- failure to submit annual return or submission of return more than 90 days after the deadline, but before the expiring of the deadline for filing the annual return for the next fiscal year, when taxes are owed: penalty between 60% and 120% of the total tax owed with a minimum of €200
- failure to submit annual return or submission of return more than 90 days after the due date, when taxes are not owed: penalty between €150 and €500

- tax payment violations: failure to pay, late payment or insufficient payment of VAT on account, of VAT resulting from periodic payments or of adjusted VAT resulting from the annual return: penalty of 30% of the unpaid amount. In cases where payments occur within 90 days after the deadline, the penalty is 15% of the amount paid with delay.

## Are any other declarations required?

### Black list reporting

This is a mandatory form taxpayers must file with the Italian tax authority reporting the data concerning sales and purchase of goods and services supplied or received to/by taxpayers resident or established in black-listed countries. Since 1 January 2014, such transactions, among others, should be mentioned in a section of the form so-called 'Modello Polivalente'. Such form, filled in only in the section related to above mentioned transactions, will have to be filed to the Italian tax authorities by the 10th or 20th of April of the year following the one the 'Modello Polivalente' refers to (depending of periodicity of VAT calculations).

### Reporting of the operations occurred in the calendar year

This reporting obligation must be fulfilled by all Taxpayers. The transactions carried out in to the calendar year be mentioned in such a report are as follows:

- business to business transactions
- business to consumer transactions: the value of the transaction should be equal to or exceed €3,600 (including VAT).

The transactions related to FY 2013 will have to be indicated in a specific section of the form so-called 'Modello Polivalente', to be filed, with reference only to such Section, within the 10th or 20th April of the year following the one of reference (depending of periodicity of VAT calculations).

### EC-lists (ECL) reporting

For intra-EU movement of goods VAT legislation requires certain reports in connection with this trade. ECLs are required for dispatches of goods to other Member States and for arrivals of goods from other Member States.

From 1 January 2010, ECLs must be filed with the Italian customs authority in relation to the supply of services provided to or received from a taxable person established in another EU Member State.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules:

- failure to issue an invoice subject to VAT: from 90% to 180% of the VAT to be charged
- failure to issue an invoice not subject to VAT, when the failure has relevance for income tax purposes: from 5% to 10% of the amount of the invoice
- failure to issue an invoice not subject to VAT, when the failure has not relevance for income tax purposes: from €250 to €2,000
- false declaration: return in which the amount of tax indicated is less than that which is due, or in which the deductible or reimbursable amounts are higher than those claimable: penalty between 90% and 180% of the increased tax and/or of the credit difference
- request for reimbursement which differs from that of the return and thus for a higher amount than it appears on the return: penalty of 30% of the amount unlawfully reimbursed
- form filled in incorrectly according to the administrative regulations. Omission of information or incorrect information for the identification data of the taxpayer or his agent; for the calculation of the taxes or for anything else which is necessary regarding the carrying out of checks: penalty from €250 to €2,000.

Criminal penalties are provided in a limited number of cases if the Italian tax authority proves that the behaviour of the taxpayer is fraudulent; there may be evasion of VAT liabilities or overstatement of VAT credits by, for example, the violation of accountancy rules, use of counterfeit documents and invoices, the hiding and the destruction of accountancy records.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Italy?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU Member States and enables a business established in an EU country to recover VAT incurred in another Member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU Member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the Member State from which he is claiming the refund

- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the Member State of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports in Italy or purchases of goods and services pertaining to their activity. The scheme is available to any person carrying on a business established in a third country ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in Italy
- he was not established in any EU country
- he made no supplies of goods and services in Italy other than certain specified exceptions
- where he is established in a third country having a comparable system of turnover taxes, unless the Italian tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in Italy. Currently, these countries are Israel, Norway and Switzerland only.

The claim has to be made by 30 September of the year following that in which the VAT was incurred.

## What information must a VAT invoice show?

A VAT invoice, pursuant to Article 21, paragraph 2, Presidential Decree 633/1972, contains the following information:

- the issue date
- progressive number which identifies it in a univocal manner
- company's name or corporate name, name and surname, residence or domicile of the seller or supplier, the tax representative as well as the location of the permanent establishment for non-resident persons
- VAT number of the seller or supplier

- company's name or corporate name, name and surname, residence or domicile of the seller or supplier, the tax representative as well as the location of the permanent establishment for non-resident persons
- VAT number of the seller or supplier or, in case of taxable persons established in another Member State of the European Union, the VAT identification number attributed by the Member State of establishment; in case the seller or supplier resident or domiciled in the territory of the State is not engaged in the furtherance of the business, trade or professional activities, tax code
- nature, quality and quantity of the goods and services concerned by the transaction
- considerations and other data needed to determine the taxable amount, including the data related to the goods transferred with a discount, premium or allowance under Article 15, first paragraph, no. 2
- considerations related to the other goods transferred with a discount, premium or allowance
- rate, amount of the tax and taxable amount with rounding up to the euro cent
- date of the first vehicle matriculation or registration in the public registries and number of kilometres travelled, hours sailed or flown, if it refers to intra-Community supply of new means of transport, pursuant to Article 38, paragraph 4, of Decree-law N° 331 of 30 August 1993, converted, with amendments, into Law N° 427 of 29 October 1993
- annotation that the same is issued on behalf of the seller or supplier, by the buyer or the client or by a third party.
- transactions carried out by travel and tourism agents subject to the regime under Article 74-ter, bearing the annotation margin scheme – travel agencies.

A simplified VAT invoice can be issued where a business makes retail sales and makes a sale of goods or services for an overall amount not exceeding €100.

VAT invoices can be issued, received and stored in electronic format. Pursuant to article 21, paragraph 1, Presidential decree 633/1972, electronic invoicing means the invoice that was issued and received in any electronic format; the use of electronic invoicing is subject to acceptance by the recipient. Invoicing either on paper or electronic, by the client or a third party resident in a country with which there are no legal instruments to regulate reciprocal assistance, is allowed provided that prior notification is given to the revenues agency and that the national taxable person has commenced the activity at least five years before and that he has not received in the previous five years, notifications of tax proceedings or disputes for substantial violation as regards VAT. The method, contents and electronic procedures of the notification is determined by regulations of the revenue agency director. The invoice, on paper or electronic, is intended to have been issued at the time of its delivery, dispatch, transmission or when made available to the supplier or customer.

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The invoice should be issued also for the other types of transactions and it contains, in place of the amount of the tax, the following notes with the indication of the relevant community or national regulation:

- supplies related to goods in transit or deposited in locations subject to customs surveillance, not subject to tax pursuant to Article 7-bis, paragraph 1, with the annotation 'not subject to taxation'
- non-taxable transactions under Articles 8, 8-bis, 9 and 38-quarter, with the annotation 'non-taxable transaction'
- exempt without credit transactions under Article 10, except for those stated under no. 6) bearing the annotation 'exempt transaction'
- transactions subject to the margin scheme provided for by Decree-law N° 41 of 23 February 1995, converted, with amendments, into Law N° 85 of 22 March 1995, bearing the annotation, depending on the case, 'margin scheme – second-hand goods', 'margin scheme – works of art' or 'margin scheme – antiques or collectors' items'

# Kazakhstan

## Indirect tax snapshot

*What are the current rate(s) of VAT?*

- Standard rate of 12% for most goods and services.
- Financial, educational, medical, veterinary, services, pharmaceuticals, land and residential buildings are exempt from VAT.
- Zero rate applies to exports of goods, certain international transportation services, and sale of goods/services to companies registered in a special economic zone.

*Are there any confirmed or anticipated changes to these rates?*

VAT is expected to be replaced by sales tax in 2017.

*What is the principal indirect tax?*

Value Added Tax (VAT) and Excise duty are the principal indirect taxes in Kazakhstan. VAT is a tax on consumer expenditure, and is collected on business transactions and imports. Excise duty shall be levied on the goods produced in Kazakhstan or imported into Kazakhstan, such as all types of alcohol, alcoholic products, tobacco products, gasoline (excluding aviation fuel), diesel fuel.

*Is there a registration limit for the tax?*

Shall the annual turnover of transactions in Kazakhstan certain limit it is required to register as VAT payer. Currently, the limit is approximately USD 181,000.

*Does the same registration limit apply to non-established businesses?*

No. There is no registration limit for businesses that are not established in Kazakhstan except for those which register a branch or representative office in Kazakhstan.

*Does a non-established person need to appoint a fiscal representative in order to register?*

No.

*How often do returns have to be submitted?*

Businesses are required to submit VAT returns quarterly, covering three month accounting periods.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return was failed to be submitted on time, penalty can be imposed. If tax was paid late then penalty, under certain circumstances, and late payment interest could be imposed.

*Are any other declarations required?*

Yes. Taxpayers would be required to file additional tax forms with respect to imported goods.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

No, only taxpayers, who obtained tax registration, are allowed to reclaim input VAT.

*Deduction of VAT*

Deduction of VAT, which is not allowed for offset, is possible under certain circumstances.





## What is the principal indirect tax?

VAT is the principal indirect tax in Kazakhstan. The tax rate could be:

- 12% – applies to sales taking place (or deemed taking place) in Kazakhstan and imports;
- 0% – applies to exports of goods from Kazakhstan, international transportation services, sales of approved goods to a company registered in a special economic zone.

Registered VAT payers must charge VAT on their sales and may claim a credit for input VAT indicated on the suppliers' VAT invoices. VAT payer's tax liability is the excess of output VAT over corresponding input VAT.

A credit for input VAT cannot be claimed if it was paid in connection with sales exempt from VAT or sales regarded as occurred outside of Kazakhstan. In case of mixed sales (i.e. some subject to and some exempt from VAT), the amount of input VAT can be calculated proportionally or by tracing input VAT directly to the sales to which it relates. The chosen method should be indicated in the taxpayer's tax accounting policy and cannot be changed during a calendar year.

VAT charged on a car must be capitalized into the initial cost of the car and then deducted through tax depreciation charges.

If a foreign non-established company provides services to a registered VAT payer, these services need to be tested for whether or not they are deemed provided in Kazakhstan for VAT purposes. If a particular service is deemed provided in Kazakhstan for VAT purposes, the buyer (i.e. Kazakh registered VAT payer) should self-charge VAT on the service fees.

## VAT Refund

Input VAT incurred in connection with exports subject to VAT at 0% can be claimed for refund. Excess of input VAT over corresponding output VAT is refundable subject to conditions and exceptions. In practice, the tax authorities tend to deny a refund for any formal reason.

Refund can be claimed within the statute of limitation of 5 years. Past this period, the refund option expires, but the excess can still be carried forward indefinitely to offset future VAT liability.

## Is there a registration limit for the tax?

Registration as a VAT payer becomes mandatory if taxable sales exceed approximately USD 180,000 during calendar year. VAT registration is optional for all others.

## Does the same registration limit apply to non-established businesses?

No, a foreign company cannot register as a VAT payer until it has set up a branch or representative office in Kazakhstan.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Not applicable.

## Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

## How often do returns have to be submitted?

VAT returns are due on quarterly basis. The deadline for a regular VAT return is the 15th day of the second month, following the quarter reported. The deadline for the payment of tax liability is the 25th day of the second month, following the quarter reported.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

For the first late submission, the tax authority will issue a notification with the warning to the tax payer. If another submission or payment is late within the next 12 months, a fixed percentage penalty is imposed on that occasion.

Failure to pay taxes on time is punished by imposing, under certain circumstances, penalties and late payment interest.

### Are any other declarations required?

Businesses that import goods from the territory of Custom Union should submit a special VAT return to the tax authorities.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Administrative penalties and interest can be applied for errors and omissions made on tax returns. Penalties can also be applied where the business has failed to maintain adequate records, document securing, etc.

Criminal proceedings may be brought in the case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Kazakhstan?

No, only registered VAT payers can claim a credit for input VAT incurred in Kazakhstan.

### What information must a VAT invoice show?

VAT invoice should show the following information:

- number of invoice in Arabic numerals only
- date of sale (if invoice issued electronically)
- date when VAT invoice was issued
- address of the seller and buyer
- status of consignor or consignee (if applicable)
- code of the foreign currency and exchange rate (if applicable)
- business identification number of the seller and buyer
- number of the seller's VAT registration certificate
- name of the services/goods sold
- the amount of taxable (non-taxable) sale
- VAT rate
- VAT amount
- total amount inclusive of VAT.

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# Republic of Kosovo

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | Currently there is only one VAT rate of 16%.   |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | Ministry of Finance may issue a sub-legal act introducing reduced and higher VAT rate for designated supplies of goods and services. The reduced rate will not be lower than 5% and the higher rate will be not higher than 21%. |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in the Republic of Kosovo. It is a tax on consumption, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>   | Yes. It is required to register for VAT from the moment when total supplies in the previous 12 month period, exceed a threshold of €50,000.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. There is no registration limit for businesses that are not established in the Republic of Kosovo, they will need to register from the beginning of their economic activity in Kosovo.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In certain circumstances, a non-established person shall appoint a fiscal representative.  |
| <i>How often do returns have to be submitted?</i>   | Tax period for all taxable persons is each calendar month; therefore a taxable person shall submit VAT returns every month.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | Yes, there are local tax declarations, including, urban maintenance and construction tax, education surcharges and flood prevention expense.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Not applicable.  |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Republic of Kosovo.

It is a tax on consumption which is applied in different phases of the production, delivery and trade with goods and services, and in the end it is carried forward from the last consumer. It is also applied to goods, and certain services, entering the country. Although VAT in the end is carried forward from the last consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the taxable person making the supply.

Taxable person is any natural or legal person who is, or is required to be registered for VAT, and who in Kosovo independently carries out any economic activity in a regular or non-regular manner, whatever the purpose or results of that economic activity.

A taxable person will charge VAT (output tax) on its sales, and will deduct VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each tax period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

VAT shall be charged on supply of goods and services made for consideration within the territory of Kosovo by a taxable person and on the importation of goods in Kosovo.

Currently there is only one VAT rate applicable which is 16%. In addition, some goods and services are exempted with credit right and some others are exempted with no credit right.

Taxable person that make exempt supplies with no credit right are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost, while taxable person that is exempted with credit right is entitled to claim all the input tax which is used for taxable supplies.

Most goods imported into the Republic of Kosovo are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes, it may be possible to reclaim the tax (subject to certain rules).

## Is there a registration limit for the tax?

Every person who meets all conditions of the definition of taxable person is required to register for VAT from the moment when total supplies in the previous 12 month period, exceeds a threshold of €50,000.

The month in which the threshold is exceeded counts for the twelve 12 months period calculation. Only that proportion of the supply which results in surpassing the threshold will be taken into consideration for purposes of VAT.

When calculating the threshold, the person shall consider the total amount of all supplies during the previous 12 month period. Supplies shall be deemed any supplies of any goods and services at any rate, including those exempt, with or without right to deduct.

When a person is registered for VAT purposes, Tax Authorities shall issue such taxable person a registration certificate containing his information. A physical person conducting the same or different economic activities and has several places of economic activity within Kosovo, shall be identified by one individual and unique VAT registration number.

A natural person conducting the same or different economic activities and has several places of economic activity within Kosovo, shall be identified by one individual and unique VAT registration number. A partnership and grouping of persons shall be identified by one single VAT registration.

Every person who has not notified and has not been registered in due time shall be registered in a compulsory way by tax authorities with retroactive effect as of the date of exceeding the threshold. Furthermore, a penalty may be imposed by the tax authority if a taxable person fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to persons who are not established in the Republic of Kosovo. The persons not established in Kosovo are subject to VAT registration, from the beginning of their economic activity in Kosovo, regardless of the threshold.



## Does a non-established business need to appoint a fiscal representative in order to register?

Taxable person not established in Kosovo which is engaged in economic activity in Kosovo shall appoint a tax representative except for those cases that the receiver of the taxable supplies is liable to report and pay VAT.

The taxable person shall be registered under his own name and the name of his tax representative within 5 days after the appointment as tax representative and prior to the starting of economic activity in Kosovo.

## How often do returns have to be submitted?

A taxable person shall submit a tax declaration and remit the related payment not later than the 20th of the calendar month following the end of each tax period.

## Are penalties imposed for the late submission of returns/payment of tax?

Administrative penalty for late declaration is 5% of due tax for each month or part of the month that is late, with a maximum administrative penalty of 25% of tax due. While, administrative penalty of late payment is 1% of tax due for each month or part of the month that payment is late, up to maximum 12 months. Furthermore, an interest for late payment at rate of 1.25% per month is also applicable.

## Are any other declarations required?

Yes. There are local tax declarations, including, urban maintenance and construction tax, education surcharges, flood prevention expense.

## Are penalties imposed for the late submission of returns/payment of tax?

Administrative penalty for late declaration is 5% of due tax for each month or part of the month that is late, with a maximum administrative penalty of 25% of tax due. While, administrative penalty of late payment is 1% of tax due for each month or part of the month that payment is late, up to maximum 12 months. Furthermore, an interest for late payment at rate of 1.25% per month is also applicable.

## Are any other declarations required?

Yes, there are local tax declarations, including, urban maintenance and construction tax, education surcharges and flood prevention expense.

## Are penalties imposed in other circumstances?

Penalties are applicable also to the taxpayer who makes supplies without being registered for VAT. Such penalties are provided below:

- 15% of the VAT due on those supplies if failure to register is due to negligence of person making taxable supplies of less than €10,000
- 25% of the VAT due on those supplies if failure to register is due to negligence of person making taxable sales of €10,000 or more.

In addition, a taxable person who fails to issue a VAT invoice, or who issues an incorrect invoice that results in an apparent decrease in the amount of VAT due or an apparent increase in the amount of credit claimable shall be liable to an administrative penalty of:

- 15% of the apparent decrease or increase in the amount of VAT due where the failure to issue a VAT invoice or the issue of an incorrect invoice was due to the negligence of the taxable person
- 25% of the apparent decrease or increase in the amount of VAT due where the failure to issue a VAT invoice or the issuance of an incorrect invoice was due to the carelessness of the taxable person.

A taxable person who commits any of the following violations with respect to VAT shall be liable to an administrative penalty of 250 Euros for each of the violation:

- failure to apply for VAT registration upon reaching the applicable threshold
- failure to apply for removal from the VAT register when required to do so
- failure to display a copy of the VAT registration certificate in the manner required by applicable law.

Furthermore, a taxpayer registered for VAT who allows another person to use its unique VAT registration certificate shall be liable to an administrative penalty of up to €5000. The person using a VAT certificate belonging to someone else will be liable for the same administrative penalty.

In addition to the administrative penalties, such cases shall be presented by the tax investigation unit to the public prosecutor for criminal prosecution.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in the Republic of Kosovo?

Not applicable.

## What information must a VAT invoice show?

A taxable person who issues an invoice to a taxable person shall indicate the following data on the invoice:

- date of issue
- sequential number enabling the identification of the invoice
- VAT registration number as well as the fiscal number of the taxable person under which he supplies the goods or services
- VAT registration number as well as fiscal number of the customer or the purchaser, if the customer or the purchaser is liable to pay VAT on goods or services supplied to him
- full name and address of the taxable person and his customer
- quantity and nature of goods supplied, or the extent and nature of the services performed
- the date on which the supply of goods or of services was made or completed, or the date of receipt of the payment on account, in so far as that date can be determined and differs from the date of the issue of the invoice
- the taxable amount on which VAT is charged for each individual rate or for which the individual exemption applies, the unit price exclusive of VAT for the goods or services, and any price reductions and discounts not included in the unit price
- the VAT rate applied
- the amount of VAT, except where a special arrangement is applied
- in the case a taxable person supplies goods or services for which a VAT exemption is prescribed, the invoice must indicate the provision of the Law that stipulates such exemption
- if a taxable person supplies goods or services where the customer is liable for payment of VAT, reference to the applicable provision of the law shall be mentioned
- a taxable person who charges VAT on the margin scheme must state on the invoice the provision of the law pursuant to which VAT on the price difference is charged

- where one of the special arrangements applicable to second-hand goods, works of art, collectors' items and antiques is applied, reference must be made to the relevant articles of these arrangements
- where the person who issues the invoice is liable to pay VAT as a tax representative, the fiscal number and the VAT registration number and his full name and address are obligatory details to be mentioned.

While a taxable person, who issues an invoice to non-taxable person shall at least indicate the following data on the invoice:

- the date of issuance
- the time of the supply
- a sequential number enabling the identification of the invoice
- the VAT registration number and the fiscal number under which the taxable person supplies the goods or services
- the full name and address of the taxable person
- the full name, address and tax identification numbers of the customer
- the total amount to pay including VAT
- the sales value of the goods or services excluding VAT
- the amount of VAT
- if a taxable person supplies goods and services at different tax rates, he must show the value including VAT separately for each tax rate and also show the value of VAT separately
- if a taxable person supplies goods or services for which VAT exemption is prescribed, the invoice must indicate the provisions of the law which stipulate the exemption.

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# Latvia

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 21% applies for most goods and services.
- Reduced rate of 12% applies to some goods and services including some medical products, special products for new-born babies, local public transportation, educational literature, periodical newspapers, heating products generated from forestry, heating and hotel services.
- 0% applies to goods and services supplied to diplomatic structures, International and EU organisations, NATO.

Most medical, social-care, educational, and financial services are VAT non-applicable. VAT is also not applied to some real-estate transactions, gambling, social, cultural and postal services.

### *Are there any confirmed or anticipated changes to these rates?*

No.

### *What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in Latvia, income from VAT makes the biggest part of the State Budget. Along VAT, excise tax and customs duties also is a part of indirect tax system in Latvia.

### *Is there a registration limit for the tax?*

Yes. There is a VAT registration threshold – €50,000 (the total annual turnover of the taxable transactions in Latvia), there are some exceptions to the above mentioned threshold, based on the kind and number of the performed transactions:

- €10,000 threshold for The purchase of goods in EU (if performed by non-taxable legal person)
- no threshold for services provided to and received from company settled in other EU member state (a non-registered taxable legal person has to register from the very first transaction).

### *Does the same registration limit apply to non-established businesses?*

No. In general the VAT directive is quite widely incorporated in Latvian VAT law and there is no registration limit for businesses that are not established in Latvia – they have to register as soon as they start to perform the taxable transactions. The duty of registration does not apply to those situations when a company moves or sells goods operating through the customs warehouse or 'free zone'. For VAT purposes it is better to analyse each business in detail as the regulation is very complex.

Different registration rules are applied to 'distance sales' made within the EU – if the 'distance sales' is performed by the tax-payer of another member state, a registration threshold would be €35,000 (there is no threshold for 'distance sales' of excised goods). But it can voluntarily register before reaching this threshold.



|   |  |
|---|--|
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>  | <p>Yes, the companies from third countries should apply for VAT registration only via authorised person. The fiscal representative (which is not the same as above-mentioned authorised person) is a new invention in a Latvian VAT Law and it can be a very effective tool for companies supplying goods from third countries in order to sell the goods further in the EU (they would not need to register in the VAT register).</p> <p>But due to the fact that there are very high financial demands for companies to become fiscal representatives, there are only few fiscal representatives registered in Latvia, mainly companies owning customs warehouses.</p>   |
| <i>How often do returns have to be submitted?</i>   | The terms for VAT reporting depend on the total value of taxable transactions. The taxable periods are: a month, a quarter, six months.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>   | Yes.   |
| <i>Are any other declarations required?</i>   | Yes, except regular VAT declaration there is a number of additional reports to be submitted. Some of them refer to transactions with the companies from other EU member states and some declarations are designed in order to keep control over the input VAT.   |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. There are also late payment charges applied to late payments of taxes, including VAT, as well as fines are calculated in tax avoidance cases.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i>   | Yes, it can be claimed with a condition that the company does not have a registered business in Latvia.  |
| <i>Is there any specific legislation to tax non-resident suppliers of electronically supplied/digital services to private consumers resident in your country?</i> | <p>Special regime for electronically supplied/digital services to private consumers was adapted in the VAT Law in Latvia from January 1st, 2015. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.</p> |

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# Liechtenstein

## Indirect tax snapshot

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|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>Standard rate of 8% applicable to all supplies of goods and services not explicitly subject to the reduced rate or the special rate.</li> <li>Reduced rate of 2.5% applicable, inter alia, to foodstuff and non-alcoholic beverages, water in conduits, news-papers, books, medicine, etc.</li> <li>Special rate of 3.8% applicable to hotel and similar accommodation.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | The rates are generally valid until 31 December 2017.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in the Principality of Liechtenstein. It is a tax on consumer expenditure which is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>  | Yes. It is related to the annual turnover of taxable transactions in the Principality of Liechtenstein, and once the limit has (or will be) reached it is necessary to register.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Yes. There is generally the same registration limit for businesses that are not established in the Principality of Liechtenstein.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Yes, a non-established person is required to appoint a fiscal representative in order to be able to register for VAT purposes in the Principality of Liechtenstein.   |
| <i>How often do returns have to be submitted?</i>  | VAT returns are generally to be submitted on a quarterly basis. If certain conditions are met, returns can also be submitted on a monthly basis or semi-annual.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Generally, no penalties are imposed if a VAT return is submitted late. However, interest for late payment (currently 4% p.a.) will be levied on late payment on the VAT amount due.   |
| <i>Are any other declarations required?</i>  | The submission of an additional annual reconciliation VAT return is required in case deviations, between the VAT returns submitted and the annual financial statements, are detected.   |
| <i>Are penalties imposed in other circumstances?</i>   | Penalties may generally be imposed in the case of negligent tax evasion, unjustified exoneration or refund.   |





*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

Yes. VAT-registered persons are allowed to deduct VAT invoiced by third parties.

## What is the principal indirect tax?

VAT is a turnover tax levied at each stage of the production and distribution. Liability for VAT rests with the person supplying the taxable goods or services or importing goods into the Principality of Liechtenstein. However, the supplier is allowed to deduct from his VAT liability on sales made the amount of VAT paid and properly invoiced to him in relation to purchases effected by him, or VAT paid by him at importation. The actual burden of the tax is therefore borne by the final consumer.

VAT (MWST / Mehrwertsteuer) is levied on taxable supplies which take place in the Principality of Liechtenstein, self-supplies, acquisition of certain services from foreign entrepreneurs and importation of goods. For VAT purposes, the Principality of Liechtenstein is considered as part of the Swiss territory. VAT is collected by the Liechtenstein tax administration.

A transaction is within the scope of VAT if the following conditions are met:

- it is a supply of goods or services
- the place of supply is considered to take place in the Principality of Liechtenstein
- it is made by, or under certain circumstances, received by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in the Principality of Liechtenstein, or has a liability to become registered.

There are three rates of VAT that are applied to goods and services in the Principality of Liechtenstein; the standard rate, the reduced rate and the special rate. In addition, some goods and services are exempted from VAT.

Exemptions without the right to deduct input tax include, inter alia, hospital and medical treatments, services supplied by social services, welfare institutions and social security institutions, child and youth education, schooling, job education etc., cultural services and sports events, insurance transactions, certain banking transactions, transfer and letting of real estate (with exceptions), operations connected with betting and other games of chance involving money, etc.

The supplier of exempt services or deliveries may opt for taxation. Please note that an option is not possible for financial and insurance services. In certain cases, option is only possible if the customer is a taxable person.

VAT borne by a taxable person on the purchase and importation of goods and services which are connected to taxable operations (also if zero rated) or to operations located abroad which would be taxable if located within the Principality of Liechtenstein can be deducted/refunded. A proper VAT invoice and, in case of importation, original import documents are required. VAT on the acquisition of goods and services directly affected to exempt activities, on operations which are not commercially justified (for instance entertainment expenses) or on private activities is not deductible.

As a general rule, VAT is payable to the customs at the time of importation. However, taxpayers who have given security for the tax amount may pay import VAT within 60 days based on the invoice issued by the Federal Customs Administration.

## Is there a registration limit for the tax?

Any person running a business is basically liable to VAT irrespective of the realisation of a turnover. Thus tax liability is not depending on the realisation of a taxable turnover. VAT law allows for an exemption from tax liability if the taxable turnover is below CHF 100,000. Each enterprise will be able to explicitly abstain from the afore mentioned exemption and therefore become tax liable. The limit is CHF 150,000 for sport or culture clubs (if they do not strive to make profit and are managed in an honorary capacity) and for institutions of public interest.

Companies, partnerships and individuals having their domicile or permanent establishment in the Principality of Liechtenstein (not in Switzerland) and who are closely related to each other, may request to be treated as a fiscal unity for VAT purposes, with one single VAT number. As a consequence, intra-group supplies are not taxable.

Any person whose domicile, registered office or permanent establishment is located in the Principality of Liechtenstein, has to pay VAT on certain services (or under certain circumstances also delivery of goods) provided by foreign entrepreneurs who are not registered for VAT purposes in the Principality of Liechtenstein, if the value of such services exceeds CHF 10,000 during the calendar year. Please note that for already registered persons, no threshold is applicable, i.e. these persons will have to pay VAT on any import of services/goods acquired from a not registered foreign person.

## Does the same registration limit apply to non-established businesses?

Non-resident entities supplying goods or services within the Principality of Liechtenstein are generally subject to the same registration rules. However, foreign entities supplying on Swiss and Liechtenstein territory only services which are subject to service import tax (i.e. services taxable at the place of the domestic recipient, excluding telecommunication services or electrical services provided to non-taxable recipients) are not obliged to register for VAT purposes and the reverse charge treatment will be applicable.

In case of registration, the foreign firm must designate a fiscal representative in the Principality of Liechtenstein and provide guarantees (usually a bank guarantee) to the Tax Authority in respect of likely tax debts.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Yes, non-resident entities supplying electronical/digital services to private consumers resident in Liechtenstein are obliged to be VAT-registered in the Principality of Liechtenstein if the taxable turnover of such imported services exceeds CHF 100,000.

## Does a non-established business need to appoint a fiscal representative in order to register?

Yes, a non-established person is required to appoint a fiscal representative in order to be able to register for VAT purposes in Liechtenstein.

## How often do returns have to be submitted?

The VAT returns generally have to be filed on a quarterly basis. The VAT return must be filed and the corresponding payment made within 60 days after the accounting period. However, for small businesses, the tax period is semi-annual. In certain cases, the tax period is monthly. Late payments are subject to interest, at the rate of currently 4% per annum.

## Are penalties imposed for the late submission of returns/payment of tax?

In case of intentional or negligent tax evasion, unjustified exoneration or refund, the taxpayer is punished by a fine up to five times the amount of the unlawful advantage. Persons jeopardizing the levy of the tax (for instance by not fulfilling the duty to register) are punished by a fine up to CHF 800,000 (doubled in severe circumstances) or can be prosecuted according to the Liechtenstein Penal Code.

## Are any other declarations required?

At the end of the business year, a turnover and input VAT reconciliation must be made. In case deviations between the VAT returns filed and the annual financial statements are detected, the entity is obliged to submit an additional annual reconciliation VAT return until 31 August of the following year.

## Are penalties imposed in other circumstances?

Penalties may generally be imposed in the case of negligent tax evasion, unjustified exoneration or refund.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Liechtenstein?

Foreign taxable persons who are not established in the Principality of Liechtenstein and who do not supply taxable goods or services on the Swiss or Liechtenstein territory may, under certain conditions, claim refund of VAT incurred on their business costs. The claim can be made once a year and must be filed by a Liechtenstein fiscal representative within a period of six months following the end of the calendar year in which the goods and services were bought. There is no refund if the annual amount does not reach CHF 500.

## What information must a VAT invoice show?

The seller of the service/goods must produce an invoice to the recipient on request. This invoice must clearly identify provider and recipient as well as the kind of the service provided or good(s) supplied.

Invoices or other accounting documents for taxable recipients as well as for recipients with residence abroad (which are entitled to VAT recovery) should generally include the following:

- the seller's name and address
- the customer's name and address
- the time or period of supply if this is different from the invoice date
- a description sufficient to identify the goods or services supplied to the customer
- the invoice amount (must not be in CHF)
- the applicable VAT rate.

Invoices from automatic cash registers (receipt) do not have to contain information about the beneficiaries if the remuneration is not exceeding a certain amount (defined by the government).

Electronic invoices must comply with the requirements regarding proof of origin and integrity. Therefore, e-invoices must include a digital signature by a certified provider.

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# Lithuania

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- Standard rate of 21% for most goods and services.
- Reduced rate of 9% is applicable to books, newspapers and other informational publications; to the heating energy and hot water for residential premises; transport of passengers to regular routes.
- 5% rate applied to pharmaceuticals and medicine support devices which acquisition expenses are entirely or partly reimbursed by the Mandatory Health Insurance Fund.
- 0% rate is commonly applicable to goods exported from the territory of European community; goods transported from Lithuania and supplied to VAT payer registered in one of the European Union (EU) member states; new cars supplied into other EU member state; certain transactions related with international trade (eg supplied goods delivered to free zone or warehouse and appropriate customs procedures executed); etc.

*Are there any confirmed or anticipated changes to these rates?*

Starting 1 January 2015 reduced VAT rate of 9% will be applicable to the accommodation services defined in the legislation.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in Lithuania. It is a tax on consumer expenditure, and is collected on business transactions and imports.

*Is there a registration limit for the tax?*

Yes, €44,891 (LTL155,00); (applicable for domestic company). It relates to the annual turnover of taxable transactions in Lithuania, and once the limit has (or will be) reached it is necessary to register.

*Does the same registration limit apply to non-established businesses?*

No. There is no registration limit for businesses that are not established in Lithuania and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the EU.

*Does a non-established person need to appoint a fiscal representative in order to register?*

Yes, applicable for entities registered outside EU. The requirement to appoint a fiscal agent to act in Lithuania is not applicable to entities registered in EU member states (such persons may be registered as VAT payers directly).

*How often do returns have to be submitted?*

The taxable period is one month. Under certain circumstances, the taxable period may be six calendar months or a period of other duration.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment is submitted later than the term set, a penalty may be imposed.

*Are any other declarations required?*

Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU.



*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Lithuania.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

The supply of goods and/or services is subject to Lithuanian VAT providing the following conditions are satisfied:

- the supply of goods and/or services is effected for consideration
- the supply of goods and/or services, according to the provisions of the Republic of Lithuania VAT law, is considered to be effected within the territory of Lithuania
- the goods and/or services are supplied by a taxable person for economic activities.

There are four rates of VAT that are applied to goods and services in the Lithuania: the standard rate (21%), the reduced rates (9% and 5%), and the zero rate. In addition, some goods and services are exempted from VAT.

Businesses that make exempt supplies are unable to claim all of the input VAT that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Lithuania from outside the EU are subject to VAT. If the established conditions are met, import VAT is not required to be paid to customs by the importer at the time of importation. Where the importation is for VAT chargeable activities and the importer is registered for VAT purposes, import VAT is declared as deductible in a VAT return and due to the import, a payable amount shall not occur.

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any customs duty.

## Is there a registration limit for the tax?

Yes, €44,891 (LTL155,00); a 'domestic person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Lithuania exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'domestic person' includes any legal entity and natural person performing economic activity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities is very different.

Even if the above threshold has not been reached, a person has to register as a VAT payer in Lithuania if they acquire goods in Lithuania from another EU member state (except the new vehicles or the goods which are subject to excise duties) and the value of such goods was above the limit of €10,137 (LTL 35,000) last calendar year or it is foreseen that the value of such goods will be above the limit of €10,137 this calendar year.

Lithuanian legislation does not provide for a possibility that two or more corporate bodies be registered together as a VAT group.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.



### Does the same registration limit apply to non-established businesses?

No, the limit is not applied. The VAT registration limit does not apply to businesses who are not established in Lithuania, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register as a VAT payer in Lithuania when they begin to supply goods or services and the place of such a supply is Lithuania (with some exceptions), irrespective of the level of turnover.

Foreign person (legal or natural) have to register as a VAT payer in Lithuania:

- when beginning to supply goods or services and the place of such a supply is Lithuania (with some exceptions)
- if it acquires goods in Lithuania from another EU member state (except the new vehicles or the goods which are subject to excise duties) and the value of such goods was above the limit of €10,137 last calendar year or it is foreseen that the value of such goods will be above the limit of €10,137 this calendar year
- if Lithuania was chosen as the place for distance selling or the value of the goods supplied in Lithuania under the distance selling scheme is above the limit of €36,203 (LTL 125,000), or the goods supplied under the distance selling scheme are subject to excise duties.

It is worth noting that distance selling is where a VAT payer of one EU member state supplies goods (other than new vehicles and goods supplied after they are assembled and installed in Lithuania) to persons of another EU member state (tax exempted or taxable persons not entitled to VAT refunds), who are not VAT payers in their own state, and the goods are, by order of the supplier or another person, transported from one EU member state to that another EU member state. Distance sales from another EU country to non-taxable persons in the Lithuania will be subject to VAT at the appropriate rate in the suppliers' country. However, once the value of those distance sales to the Lithuania exceeds the threshold of €36,203 (LTL 125,000):

- the supplier becomes liable to register as VAT payer in the Lithuania
- the Lithuania becomes the place of supply
- any further sales to customers in the Lithuania are subject to Lithuania VAT.

Suppliers can choose to make the Lithuania the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

### Does a non-established business need to appoint a fiscal representative in order to register?

Persons from territories outside the area of EU are registered through their branch in Lithuania, and where they do not have a branch – through the fiscal agent appointed to act in Lithuania.

The requirement to appoint a fiscal agent to act in Lithuania is not applicable to persons from EU member states. Such persons may be registered for VAT purposes directly.

### How often do returns have to be submitted?

A VAT return for a tax period must be submitted no later than 25 days after the end of a tax period.

There is a difference between the tax periods applied to natural persons who are VAT payers and legal persons who are VAT payers: a tax period for a legal person is a calendar month and a tax period for a natural person is a calendar half-year (in certain cases, at the request of a VAT payer, a tax period other than a calendar month or a calendar half-year may be established).

In certain cases there may be a requirement to file annual VAT return. This return is normally used for the correction of pro-rata. It must be submitted and the VAT due must be paid no later than 1 October of the following year.

VAT calculated in a tax period return (calendar month, calendar half-year or other tax period) as well as in an annual return must be paid to the budget no later than 25 days after the end of a tax period.

### Are penalties imposed for the late submission of returns/payment of tax?

Late payment of VAT is subject to default interests of 0.04% for each day of delay. A fine may also be imposed that is from 10% to 50% of the outstanding tax amount.

Failure to present tax returns is subject to administrative liability attracting a warning or administrative fine from €58 to €1,158.

## Are any other declarations required?

Businesses that are registered for VAT in Lithuania and make supplies of goods or services to VAT payers of other EU country are required to file the statements of inter-community supply of goods/services. The reporting period of the statement is a calendar month. Completed statements of inter-community supply of goods/services have to be submitted not later than within 25 days after the end of the reporting period.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Fines and default interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Administrative fines can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Lithuania?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere. The foreign taxable person, established in another EU member state, has to submit an electronic refund application via the system provided to him by the EU member state of establishment. The foreign taxable person established outside the EU has to submit a paper refund application directly to the 'State Tax Inspectorate' of Lithuania. It is worth noting that VAT is refunded to those taxable persons of foreign states that refund VAT to Lithuanian VAT payers. This restriction shall not apply to non-EU electronic service providers that are registered for VAT purposes in other EU member states.

A foreign taxable entity shall have the right to submit an application to be refunded VAT paid in Lithuania only in the case where during that period in which the VAT paid is requested to be refunded it satisfies the following criteria:

- had no divisions/subdivisions in the Republic of Lithuania
- had not performed any activity which is subject to VAT in Lithuania, except the cases when it supplied only such services and goods the VAT on which must be calculated and paid by the purchaser.

VAT may be refunded to the foreign entity if the goods and services acquired are designated for economic activity of that foreign entity, which is granting right to deduct VAT in the country of its establishment. VAT paid by the foreign taxable entity in respect of the goods and/or services, the input and/or import VAT whereof shall, under the provisions of the law, in no case be deductible by VAT payers, shall not be refundable to foreign taxable entities. VAT is also not refundable if supply of goods and services were not subject to VAT.

According to the Lithuanian VAT legislation, the minimum refundable amount is:

- €400 (LTL 1,380) if the request is presented for the term less than calendar year but not less than three calendar months of that calendar year
- €50 (LTL 170) if the request is presented for the entire calendar year or part of the term remaining until the end of the calendar year which is less than three calendar months.

A foreign taxable entity may present application to refund VAT for the period, which is not longer than calendar year and not less than three calendar months of that calendar year; or less than three calendar months provided these months are the last months of the calendar year.

The taxable person, established in another EU member state, must submit the application to refund VAT no later than 30 September of the following year for the preceding calendar year. The taxable person, established outside the EU, must submit the application to refund VAT no later than 30 June of the following year for the preceding calendar year.

The decision to refund VAT (or refuse to refund) may take the tax authorities up to 4 months, if additional information is not requested.

## What information must a VAT invoice show?

Mandatory details of VAT invoice:

- the date of issue
- a sequential number, based on one or more series which uniquely identifies the invoice
- the supplier's VAT identification number
- the customer's VAT identification number
- the full name and address of the supplier
- the full name and address of the customer
- the nature of the goods supplied or the nature of the services rendered and the quantity of the goods supplied and extent of the services rendered
- the date on which the supply of goods or services was made (if it differs from date of the invoice)
- the unit price exclusive of VAT and any discounts or rebates if they are not included in the taxable amount
- the taxable amount per rate or exemption
- the VAT rate applied
- the VAT amount in national currency (Litas)
- in case of an exemption and when 0% rate applicable, reference to the applicable provision of this directive, or to the corresponding national provision, or any other reference indicating that the supply of goods or services is exempt or 0% rate applicable
- for certain sales other details are required, like: "Reverse charge", "Margin scheme", VAT code of fiscal agent, etc.

In some cases, when the value of goods or services do not exceed €100 (LTL 345) including VAT, a simplified VAT invoice can be issued.

Following the established requirements, VAT invoices can be issued, received and stored in an electronic format. Invoices in a paper format must be stored in Lithuania.

Invoices must be kept for ten years.

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# Luxembourg

## Indirect tax snapshot

|  |   |
|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• Standard rate of 17% for most goods and services.</li> <li>• Intermediary rate of 14% for advertising, custody fees, wine, etc.</li> <li>• Reduced rate of 8% on liquefied or gaseous gases, destined for heating, lighting and to supply engines, electricity, living plants and other floriculture products. Certain services also benefit (temporarily) from this rate: hairdressing; bicycles, shoe and leather article repairs; clothes and household linen alterations; window cleaning and household cleaning with respect to private residences.</li> <li>• Super reduced rate of 3% on food and medical products, books, shoes and clothes for children, water, transporting passengers etc.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Luxembourg.  |
| <i>Is there a registration limit for the tax?</i>  | Businesses that made less than €10,000 in the previous year (delivery of goods or services) are exempt from VAT.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Yes.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | No. The fiscal representative no longer exists in Luxembourg.   |
| <i>How often do returns have to be submitted?</i>  | The VAT periodicity depends on the turnover. Annual VAT return is always mandatory and depending on the taxpayer's turnover periodic VAT returns are required also.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return is submitted late a penalty can be imposed (between €50 and €5,000 per late return).   |
| <i>Are any other declarations required?</i>  | Yes. Additional declarations have to be submitted in respect of certain supplies (goods and services) made to customers who are registered for VAT elsewhere in the EU (EC Sales Listing). Declarations also have to be submitted in certain circumstances in connection with goods moving to or from another VAT EU member state (Intrastat report).   |





*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Luxembourg.

Created in 1970, VAT (value added tax) is a high yield tax that applies to transactions (goods or services) connected with an economic activity. It represents almost half of the state's tax revenue.

At each stage of the production and distribution process, the tax only applies to the added value given to the product. Companies thus add VAT to the sale price of their products and deduct the tax relating to the goods or services that contributed to the manufacture of their products or the provision of their services from that 'collected' tax. Only the difference between the 'collected' tax and the deductible tax is paid to the Treasury.

VAT is a general consumption tax. It is levied on all economic activities. Transactions may be subject to VAT by law or because they are carried out against payment.

To be subject to VAT, the transaction must involve either the delivery of movable assets (goods) or the provision of services.

The transaction must be connected with an economic activity in the commercial, craft, industrial, agricultural or liberal professions sectors. Some professions, such as professions related to the agricultural sector, benefit from a special regime. Activities not connected with the economic sector do not fall within the scope of VAT. Therefore, the activities of administrative public services that do not compete with those of the competitive sector are not subject to VAT. Transactions carried out as part of private asset management for individuals are also exempt from VAT. The activities carried out by associations benefit from an exemption regime.

The delivery of goods or the provision of a service is subject to VAT if it involves a consideration which corresponds to the payment of the price asked (cash) or the delivery of a good or a service. It does not matter whether the transaction generates a profit or a loss.

The transaction must be carried out by a taxable person. A taxable person is a person who independently carries out transactions falling within the scope of VAT (taxable or exempt) regardless of legal status, nationality or the aim of the transaction.

## Is there a registration limit for the tax?

Businesses that made less than €10,000 in the previous year (delivery of goods or services) are exempt from VAT. They do not need to submit a VAT return but they are still of course obliged to provide the tax authorities, at their request, with information allowing them to ensure that the threshold of €10,000 has not been exceeded. Of course, businesses benefiting from the exemption cannot charge VAT to an account nor can they show VAT on their invoices. They therefore cannot offset deductible VAT either.

## Does the same registration limit apply to non-established businesses?

Yes, see above.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT Mini One Stop Shop (MOSS) simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Does a non-established business need to appoint a fiscal representative in order to register?

No longer applicable in Luxembourg.

## How often do returns have to be submitted?

Concerning the VAT periodicity, the VAT authorities fix it on the basis of the (expected) total annual turnover of the company, as follows:

- *Expected annual turnover higher than €620,000*: Submission of monthly VAT returns and annual VAT return.
- *Expected annual turnover between €112,000 and €620,000*: Submission of quarterly VAT returns and annual VAT return.
- *Expected annual turnover less than €112,000*: Submission of single annual VAT return (only).

The decision of the VAT authorities in that respect is notified in the VAT registration notification or when a different tranche of turnover has been reached.

The periodical VAT is required to be filed (mandatory) in an electronic way (e-VAT system).

The deadlines for submission of the VAT returns are the following:

- For monthly VAT return: the deadline is the 15th day of the month following the month for which tax is due.
- For quarterly VAT return: the deadline is the 15th day of the quarter following the quarter for which tax is due.
- In case of periodical VAT returns (monthly or quarterly) the deadline for annual VAT return is before 1 May of the following year with a tolerance until 31 December (confirmed each year by VAT authorities).
- In case of single annual VAT return: the deadline is before 1 March of the following year with a tolerance until 31 October (confirmed each year by VAT authorities).

## Are penalties imposed for the late submission of returns/payment of tax?

Yes. If a VAT return is submitted late a penalty can be imposed (between €50 and €5,000 per late return).

Failure to pay within the statutory period may also be punishable by a penalty tax of up to 10% one year from the tax due.

## Are any other declarations required?

Businesses that are registered for VAT in Luxembourg and make supplies of goods or services to traders' registered in other EU countries are required to complete EC sales Listings (ECLs).

In principle the submission of the ECLs is on a monthly basis. By way of derogation, a quarterly submission can be authorised if the total amount of intercommunity deliveries of goods and/or triangular operations does not exceed €100,000.00 during the quarter concerned nor in respect of the four previous quarters.

If the taxable person does not exceed the threshold indicated above, he can choose to submit the listings either on a monthly or on a quarterly basis. There is no formal procedure for choosing, and no need to inform the VAT authorities.

The submission of the ECLs for services can be monthly or quarterly. It is up to the taxpayer to decide. There is no threshold, no formal procedure for choosing, and no need to inform the VAT authorities.

The periodicity for ECLs for services is in no way linked to the periodicity for filing ECLs for goods (and vice versa).

In case of monthly submissions, the ECLs must be submitted via internet, using the 'eTVA' system of the Luxembourg VAT authorities.

In case of quarterly submissions, the ECLs can be submitted either in paper format or via the internet, depending on the choice of the taxable person.

The deadline for filing the listings is the 15th day of the month following the reporting period if the listing is submitted in paper format and the 25th following day if it is filed via internet.

To correct an ECL, the taxable person should simply report the corrections in the following ECL, via the corresponding boxes of the corresponding form.

In addition, if the value of the intra-EU trade of goods dispatched or arriving from another EU member state is above an annual threshold (€200,000 for acquisition of goods and €150,000 for delivery of goods), a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These returns have to be submitted on a monthly basis.

The thresholds are the following – type of return:

| Thresholds     | Annual values of the intercommunity operations (in €) |            |           |             |
|----------------|---|------------|-----------|-------------|
| Arrival        | < 200 000   | ≥ 200.000  | ≥ 375.000 | ≥ 4.000.000 |
| Dispatch       | < 150 000   | ≥ 150.000  | ≥ 375.000 | ≥ 8.000.000 |
| Type of return | Exemption   | Simplified | Detailed  | Extended    |

The deadlines are either (always on a monthly basis):

- within six working days after the end of the month of reference (in case of paper submission)
- within 16 working days after the end of the month of reference (in case of electronically submission)

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed when businesses do not comply with the VAT rules.

Anyone who tries, in some way, to evade payment of tax or to obtain in a fraudulent or improper manner a tax refund, is subject to a tax penalty of €100 to €5,000.

The tax penalties are imposed by the director of administration or his delegates, payable within one month after notification of the written decision.

Criminal proceedings may be brought to court in case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Luxembourg?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member states, and enables a business established in an EU country to recover VAT incurred in another member state. To be eligible to make a claim, the claimant must be a taxable person established in an EU member state other than the one from which the claim is to be sought.

In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically with an authenticated e-signature to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Luxembourg or purchases of goods and services used in Luxembourg. The scheme is available to any person carrying on a business established in a third country ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in Luxembourg
- he was not established in any EU country
- he made no supplies of goods and services in Luxembourg other than certain specified exceptions
- where he is established in a third country having a comparable system of turnover taxes, unless the Luxembourg tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in the Luxembourg.

The reclaim period in Luxembourg is from 1 July to 30 June each year. Claim forms have to be submitted to the Luxembourg tax authorities no later than six months as from the end of the relevant year ie by 31 December each year.

## What information must a VAT invoice show?

The following information has to be mentioned on the invoices for VAT purposes:

- the date of issue
- a sequential number, based on one or more series, 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 the payment of VAT or received a supply of goods as referred to in Article 43(1)(d),(e) and (f)
- the full name and address of the taxable person and of the customer
- the quantity and nature of goods supplied or the extent and nature of services rendered
- the date on which the supply of goods or services was made or completed or the date on which the payment on account was made, in so far as that date can be determined and differs from the date of issue of the invoice
- 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 for which such a detail is to be excluded
- where an exemption is involved or where the customer is liable to pay the VAT, reference to the applicable provisions of Directive 2006/112/EC or to the corresponding provision of VAT act, or to any other reference indicating that the supply is exempt or subject to the reverse charge procedure.

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# Republic of Macedonia

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 18% for most goods and services.</li> <li>• Preferential rate of 5% for supply and import of certain goods and services.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in the Republic of Macedonia. The value added tax, as a general consumption tax, shall be calculated and paid in all stages of the production and trade, as well as in the whole service sector, unless otherwise prescribed by Law  |
| <i>Is there a registration limit for the tax?</i>   | Yes. All taxpayers, whose total turnover has exceeded the amount of 1,000,000 Denars in the past calendar year or whose total turnover is anticipated to exceed the amount at the beginning of the performance of the business activity or to exceed the amount during the year, shall be obliged to register for value added tax. |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. There is no registration limit for businesses that are not established on the territory of Republic of Macedonia.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Not applicable.  |
| <i>How often do returns have to be submitted?</i>   | It depends on the amount of the annual turnover and the returns may be submitted quarterly or monthly.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | No.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in the case of existence of reciprocity and meeting certain conditions.   |



## What is the principal indirect tax?

The principal indirect tax in Republic of Macedonia is Value Added Tax (VAT).

The VAT, as a general consumption tax, shall be calculated and paid in all stages of the production and trade, as well as in the whole service sector, unless otherwise prescribed by the Macedonian law on VAT.

The following shall be taxable under VAT:

- the sale and purchase of goods and provision of services (hereinafter: supply), that is conducted in the country by the taxpayer for consideration within the framework of its economic activity
- the import of goods.

Supply of goods, shall be the transfer of the right to dispose of movable or immovable tangible assets. Supply of services, in terms of this law, shall be any activity not being a supply of goods.

If the supply of goods as basic supply is supplemented with a supply of another good or service as ancillary supply, the complete supply shall be deemed supply of goods. If the supply of services as basic supply is supplemented with supply of another service or good as ancillary supply, the complete supply shall be deemed supply of services.

The taxpayer shall be a person that, permanently or occasionally, independently, performs an economic activity, regardless of the purposes and the results of such an activity. Economic activity shall be deemed any activity of the producers, the traders and the persons providing services aiming at generating income, including the activities in the field of mining, agriculture and forestry, as well as giving tangible and nontangible goods for the purpose of being used. Independent activity shall not be deemed the activity of:

- the natural persons that, separately or jointly, are employed in an enterprise and on such basis receive salary and are obliged to refer to the instructions of the employer
- the subsidiaries, the branch offices or the other separate organisational units of an enterprise.

The state bodies, the bodies of the local self-government units and the other public-legal bodies shall not be taxpayers for the part of their activities limited to the exercise of public powers, even if they charge taxes, fees, contributions or other duties for those activities. The state bodies, the bodies of the local self-government units and the other public-legal bodies shall be taxpayers in the cases where, within the framework of a certain economic activity, they carry out supply which, in accordance with this Law, is taxable in respect to the other taxpayers.

The tax base for the value added tax shall be the total amount of the consideration received or to be received for the supply, without the value added tax included. Money, goods, services and other benefits according to the market price paid or to be paid by the recipient of the good, or the user of the service or another person, shall be deemed consideration.

The tax base shall include:

- the taxes, including the excise, fees, contributions and other duties prescribed by separate laws, except the value added tax
- the related costs for packaging, loading, unloading, transportation and insurance, as well as the commissions and other costs calculated by the taxpayer to the recipient of the good or the user of the service
- the subsidies directly connected with the price of supply of the good or the service.

The tax base shall not include:

- the deduction of the price in a form of discount for advance payments
- the price discount, the rebate and the other types of deduction of the price approved for the recipient of the good or the user of the service at the time of supply, if they are separately shown in the invoice and recorded in the book-keeping
- the amount received by the taxpayer from the recipient of the good or the user of the service as a payment of the costs incurred on their behalf and their account, provided that such amount is recorded in the book-keeping.

The value added tax shall be calculated by applying a proportional tax rate to the tax base for the taxable supply of goods and services and import, that is according to the general tax rate of 18% and according to the preferential tax rate of 5%.

The general tax rate of 18% shall apply to the complete supply and import, except for the supply and import taxed at preferential tax rate.

Preferential tax rate of 5% shall apply to the supply and import of: Products for human consumption; drinking water of the public systems for supply and discharge of urban waste waters and water for irrigation of agricultural land; publications, that is: books, brochures and similar printed materials, newspapers and other periodical publications, children's picture-books, drawing books and colouring books, and cartographic products of any type, except publications serving mostly for advertising purposes, as well as publications with pornographic contents; Seeds and planting material for production of agricultural plants; fertilizers; substances for plants protection; plastic foils for use in agriculture; agricultural mechanisation; medicaments; machines for automatic processing of data and their units (computers); thermal solar systems and components; medical equipment, apparatuses and other devices the purpose of which is to alleviate or treat a disability, exclusively for personal purposes of people with disabilities; crude oil for production of food for human consumption; and trade in residential buildings and apartments, regarding the part used for housing purposes and effectuated within a period of five years after construction.

The following services shall be charged with 5% preferential rate: transportation of persons and their accompanying luggage; software for machines for automatic processing of data and their units (computers); services for maintaining public cleanliness and disposal of waste; and accommodation services (overnight accommodation) or bed and breakfast, half board or full board accommodation.

The tax debt shall incur:

- at the moment of completion of the supply of the good. If the good is transported or dispatched, the moment of commencement of the transport or dispatch shall be considered. If the supply includes assembly or installation, the moment of completion of the corresponding activities shall be considered
- at the moment of completion of the service in full.

Where the payment is made prior to the completion of the supply, time of incurrence of the tax debt shall be considered the moment when the payment is received, in the amount of the tax for the received amount.

In the case of periodic or continuous supply, for which consecutive payments are anticipated, time of incurrence of the tax debt shall be considered the day when the invoice for the corresponding period is issued or, if earlier, the day when the payment for the corresponding period is received.

If the economically divisible supply is owed and conducted in parts, time of incurrence of the tax debt shall be considered the day when the corresponding part of the supply is completed.

Where automatic machines that operate with coins, banknotes or tokens are used for sale of goods or rendering services, time of incurrence of the tax debt shall be considered the day when the coins, banknotes or tokens are taken out of the automatic machine.

Time of incurrence of the tax debt, upon import of goods, shall be considered:

- the day of occurrence of the obligation to pay the customs duty and the other import duties, or the day of import of the good in the country, in the cases of goods that are not subject to payment of customs duties
- the moment when the good, which is subject to the regime of goods in free zones, customs zones and customs warehouses or if the good is in transit or temporarily imported, is released in free circulation.

Tax debtor shall be:

- the taxpayer in the cases referred to the sale and purchase of goods and provision of services (hereinafter: supply), that is conducted in the country by the taxpayer for consideration within the framework of its economic activity
- the person importing goods in the cases of the import of goods
- the person issuing an invoice referred to states separately the value added tax in the invoice although not authorized to do so, it shall be liable for the stated amount and as well if it states separately a higher tax than the amount it is liable for in accordance with the Law, the person shall as well be liable for the extra tax
- the recipient of the good or the user of the service, provided that it is a taxpayer or an institution in terms of state bodies, the bodies of the local self-government units and the other public-legal bodies, in the case of supply, completed by a taxpayer which has no head office nor subsidiary in the Republic of Macedonia.

In such cases, the obligation for calculation of the tax, for submission of a tax return, for payment of the tax, and for payment of the interest rate in the case of late tax payment, shall be borne by the tax debtor registered in Republic of Macedonia.

### Is there a registration limit for the tax?

All taxpayers, whose total turnover has exceeded the amount of 1,000.000 Denars in the past calendar year or whose total turnover is anticipated to exceed the amount at the beginning of the performance of the business activity or to exceed the amount during the year, shall be obliged to register for value added tax. The obligation for registration for value added tax shall not apply to taxpayers in terms of a taxpayer that does not have head office nor subsidiary in the Republic of Macedonia and the case of tax refund of a tax payer and in the case of existence of reciprocity, the taxpayers that have no head office or subsidiary in the country and do not perform any supply therein, or that do not have sales tax due.

The total turnover shall be a sum of the supplies completed by the taxpayer during the calendar year, which are subjected to taxation, including as well the tax related thereto, except for the turnover exempted from tax without the right to deduction of the input tax. If the taxpayer has carried out its activity only in one part of the calendar year, the actual total turnover shall be calculated on a level of total turnover for the whole calendar year.

Taxpayers – residents in the country that are not obliged to register, shall not be levied value added tax for supply of goods and services conducted by them. They shall not be authorized to separately declare the tax in the invoices or in other documents and shall not have the right to deduction of input taxes. Taxpayers may voluntarily register for value added tax on the beginning of each calendar year.

The taxpayers shall be obliged to submit a request for registration for value added tax to the competent tax authority.

The competent tax authority shall perform the entry in the register of value added taxpayers as of the beginning of the current calendar year and shall issue the taxpayers a certificate.

If the taxpayer has commenced the performance of its activity during the calendar year, the registration shall be performed with the commencement of the performance of the activity. Commencement of the performance of the activity shall be considered the first performance of an activity by the taxpayer as first completed purchase of goods (capital assets, sales goods and alike), service used (rent, market research and alike) and completed supply of goods or service. If during the year the taxpayer exceeds the amount of completed total turnover of 1,000.000 Denars, the registration shall be performed upon the expiry of the month when the supply has been completed.

The taxpayers shall remain registered at least in a period of five calendar years, regardless of the amount of the total turnover. If the total turnover in the fifth calendar year does not exceed the amount, the taxpayer may, upon the expiry of the time period, submit a request for deregistration for value added tax to the competent tax authority which shall issue to the taxpayer a decision on deletion from the register of value added taxpayers.

As an exception to the time period determined above, the termination of the registration may be realised in a shorter time period than five calendar years, upon adoption of a decision by the competent tax authority.

The competent tax authority may terminate the registration if:

- in the previous calendar year, the taxpayer submits tax returns without declaring the tax for the completed turnover and without declaring the input tax for deduction
- in the two previous calendar years, the taxpayer submits tax returns without declaring the tax for the completed turnover, with the exception of the cases when the same periods in the tax returns declare only supplies exempted from tax with the right to deduction or input tax resulting from the supplies of investment goods performed towards the taxpayer or imported by it
- the taxpayer cannot be found on the reported address and on the address for performance of business activities
- the taxpayer does not submit a tax return for at least two tax periods in respect to the monthly and quarterly taxpayers, and for one tax period in respect to the annual taxpayers
- tax evasion has been previously identified at the taxpayer
- the cases referred to several persons being registered for VAT as a single taxpayer.

The taxpayers shall submit the return by the 15th of January in the current year at the latest. If the taxpayer has commenced the performance of its activity during the calendar year, the return shall be submitted in a period of 15 days as of the commencement of the performance of the activity. If during the year, the amount of realised total turnover exceeds 1,000.000 Denars, the taxpayer shall submit the return by the 15th in the month following the month of realisation of the turnover at the latest.

The taxpayers shall submit the request for termination of the registration for value added tax by the 15th of January in the year when they want to terminate the registration for value added tax at the latest.

The competent tax authority may reject to register the taxpayer that commences the performance of an activity and the taxpayer that has voluntarily applied for registration if:

- it cannot be found on the reported address and on the address for performance of business activities
- it cannot prove the real intention to perform an activity
- tax evasion has been previously determined at the taxpayer.

### Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses which are not established in the Republic of Macedonia.

In the case of supply, completed by a taxpayer which has no head office nor subsidiary in the Republic of Macedonia the recipient of the good or the user of the service, provided that it is a taxpayer or an institution in terms of state bodies, the bodies of the local self-government units and the other public-legal bodies shall be obliged to calculate the tax, submit the tax return, payment of the tax, and payment of the interest rate in the case of late tax payment.

### Does a non-established business need to appoint a fiscal representative in order to register?

The fiscal representative is a topic that is still not introduced in the respective VAT legislation of Republic of Macedonia.

### How often do returns have to be submitted?

The period for which the value added tax is calculated and paid shall be a tax period. A tax period shall be considered the calendar month or, if the total turnover in the previous calendar year has not exceeded the amount of 25 million Denars, the tax period shall be a calendar quarter.

If the taxpayer performs its activity only in one part of the calendar year, only the referred period shall be considered to be the tax period.

As an exception, the tax period for taxpayers that generate turnover and being voluntarily registered may be determined to be a calendar month if the taxpayer submits a request and proves by documents that in the course of the current calendar year there are to be input realisations resulting from investments in equipment and immovables for commencement or expansion of its economic activity in the amount of 100.000.000 Denars at least, on annual basis, with no value added tax included. The request shall be submitted to the competent tax body, by the 10th in the month.

### Are penalties imposed for the late submission of returns/payment of tax?

Fine in the amount of €1,500 in Denar counter-value for perpetrated misdemeanour shall be imposed on a legal entity – taxpayer if it submits a tax return to the competent tax authority after the expiry of the prescribed time period.

The responsible person in the legal entity and the natural person – taxpayer that has not submitted a tax return within the prescribed time period, or has submitted a tax return, but has not fill it in with correct data, or has submitted a tax return and has not pay the tax due to the established accounts, in order to acquire greater property benefit or value, shall be sentenced to imprisonment of six months to five years and shall be fined.

If the amount of the liability is substantial, the perpetrator shall be sentenced to imprisonment of at least four years and shall be fined. If the offense is committed by a legal entity, it shall be fined. The property benefit acquired by the committed offense shall be seized based on a court decision.



### Are any other declarations required?

The taxpayer shall be obliged, for each tax period, to submit a tax return in a period of 25 days after the expiry of the tax period where it shall calculate the taxes on its own.

For the corresponding tax period, the taxpayer shall be obliged to enclose a periodical financial report of the approved fiscal equipment systems for registration of cash payments to the tax return and through the bearer of payment operations to submit a periodical report for Denar transaction accounts and foreign currency accounts through which it realizes its operations.

The tax return shall be submitted in the deadline, even if the taxpayer has not carried out a taxable supply in the corresponding tax period.

As an exception, in the case of termination of performance of an activity, the taxpayer shall be obliged to submit a tax return in a period of 25 days after the expiry of the calendar month in which it has terminated its activity.

Furthermore, as an exception, in the case of altering the tax period, in cases of voluntary registration of the taxpayer that proves by documents that in the course of the current calendar year there are to be input realizations resulting from investments in equipment and immovables for commencement or expansion of its economic activity in the amount of 100,000,000 Denars at least, on annual basis, with no value added tax included, the taxpayer shall be obliged to submit a tax return in a period of 25 days after the expiry of the calendar month in which the request has been submitted, for the period starting from the beginning of the calendar year until the end of the month when the request has been submitted.

### Are penalties imposed in other circumstances?

A fine in the amount of €1,500 in Denar counter-value for a perpetrated misdemeanour shall be imposed on a legal entity taxpayer if:

- it a tax return is submitted to the competent tax authority after the expiry of the prescribed time period
- keeps the records unduly
- does not issue an invoice within the prescribed time period.

For the misdemeanour, the responsible person in the legal entity shall be fined in the amount of €500 in Denar counter-value.

For the misdemeanour, natural person – taxpayer shall be imposed a fine in the amount of €500 in Denar counter-value.

A fine in the amount of €2,000 to €2,500 in Denar counter-value for perpetrated misdemeanour shall be imposed on a legal entity taxpayer if:

- it does not submit a tax return to the competent tax authority
- the value added tax is not paid to the established account
- it does not submit a request for registration for the value added tax
- it does not keep or keeps the records incorrectly
- it issues an unduly invoice
- the invoices and the other documents issued in accordance with this law or the business books are not kept within the prescribed time period.

For the misdemeanour, the responsible person in the legal entity shall be imposed a fine in the amount of €500 to €1,000 in Denar counter-value.

For the misdemeanour, a natural person – taxpayer shall be imposed a fine in the amount of €500 to €1,000 in Denar counter-value.

A fine in the amount of €1,200 in Denar counter-value shall be imposed on a legal entity – taxpayer, for a perpetrated misdemeanour if it submits a request for registration for value added tax after the expiry of the prescribed time period. For the same misdemeanour, the responsible person in the legal entity shall be imposed a fine in the amount of €500 in Denar counter-value.

For this misdemeanour the natural person – taxpayer shall be imposed a fine in the amount of €500 in Denar counter-value.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Macedonia?

Yes, it may be possible to reclaim the VAT in case of existence of reciprocity. The taxpayers that have no head office or subsidiary in the country and do not perform any supply therein, or that do not have sales tax due, shall be paid off, upon a request, the input tax that may be deducted in accordance with the special procedure prescribed by the minister of finance.

The application for tax refund should be filed by the non-resident tax payers in front of the tax authority in Republic of Macedonia, accompanied with the following documents:

- original invoices
- proof of invoices being paid
- proof that the non-resident tax payer has been registered as tax payer in the country of origin. This proof may be submitted in English, German or French accompanied with Macedonian translation.

The tax authority shall review the application for tax refund and within six months from the date of submission to refund the amount in case all prescribed conditions are met.

### What information must a VAT invoice show?

The invoice must contain the following data:

- place, date of issuance, number
- name (title) and address of the taxpayer carrying out the supply and its tax number registered under for value added tax
- name (title) and address of the recipient of the goods or user of the service
- day of the completed supply
- quantity and description of the supply
- amount of the consideration for the completed supply, not including the value added tax
- tax rate applied
- amount of the calculated value added tax
- total amount of the consideration for the completed supply and the value added tax
- signature and seal of the issuer of the invoice.

The taxpayer shall be obliged to issue an invoice for the supply to other taxpayers upon a request.

Invoice, shall be considered each document issued by the taxpayer or upon its order by another person in regard to the completed supply. Invoice shall also be considered the calculation, whereby the taxpayer calculates certain taxable supply completed towards it by another taxpayer.

Where consideration is received only for partially completed supply, prior to completing the supply, the taxpayer shall issue separate invoices for each partially completed supply.

The taxpayer shall issue an invoice for each payment received in advance (advance payment), prior to the completion of the supply.

In the course of exchange of goods or services, each individual taxpayer shall issue an invoice.

The supply shall be separately showed in the invoices issued for taxable supply, as well as for supply exempted from tax. Where the supply exempted from tax is performed, the invoice shall state 'without value added tax calculated'.

The taxpayer shall issue the invoice in two copies. The first copy of the invoice is submitted to the recipient of the goods, and the second is kept in the personal records.

The invoice shall be issued on the day of the completed supply, and in a period of five business days at the latest.

Where consideration is received prior to completion of the supply, the invoice shall be issued on the same day when the advance payment is received, and within the time period of five business days at the latest.

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# Malta

## Indirect tax snapshot

*What are the current rate(s) of VAT?*

- Standard rate of 18% for most goods and services.
- Special rate of 7% for licensed holiday accommodation, gym membership, fitness centres and football academies.
- Reduced rate of 5% for some goods and services including the supply of electricity, confectionery items, printed matter, medical accessories, and items for the exclusive use of the disabled.
- Zero-rated goods and services include most food and pharmaceutical goods.

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in Malta. It is a tax on consumer expenditure, and is collected on business transactions and imports.

*Is there a registration limit for the tax?*

Yes. It relates to the annual turnover of taxable transactions in Malta, and once the limit has (or will be) reached it is necessary to register in terms of article 10. A small business is still required to register in terms of article 11 as a small business in terms of domestic provisions unless it opts to register under article 10.

A taxable person who makes solely exempt supplies is obliged to register in terms of article 12 if he exceeds the intra-community acquisition of goods threshold or receives services from outside Malta where VAT is due in Malta in terms of the reverse charge mechanism.

*Does the same registration limit apply to non-established businesses?*

No. There is no registration limit for businesses that are not established in Malta and they will need to register as soon as they start to make taxable transactions. However, the non-established business is not required to register for VAT in Malta if the business makes only supplies in respect of which the tax liability falls upon the recipient of the supply.

Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU) e.g. mail order and internet sales.

*Does a non-established person need to appoint a fiscal representative in order to register?*

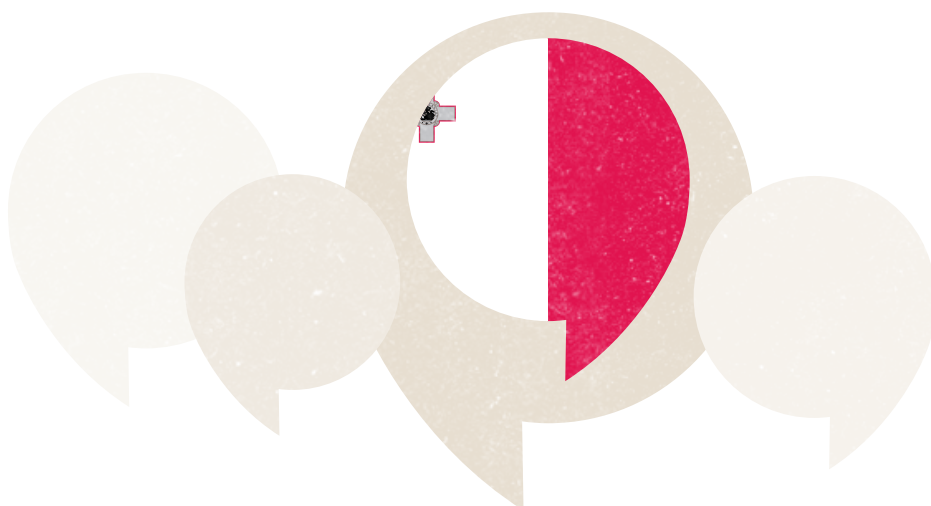
A non-established person who is not established in the Community and is registered, or obliged to be registered for VAT in Malta has to appoint a fiscal representative.

*How often do returns have to be submitted?*

Most businesses are required to submit VAT returns covering three month accounting periods (not necessarily on a calendar quarter basis). Returns can also be submitted on a monthly basis if the taxpayer is in a tax refundable position, subject to approval by the Commissioner.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed. Interest is also chargeable on late payment of VAT.



*Are any other declarations required?*

Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.

*Are penalties imposed in other circumstances?*

Yes. Penalties and interest can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

Input VAT may not be claimed on tobacco and tobacco products, alcoholic beverages, works of art and antiques, entertainment and motor vehicles, vessels, aircraft and fuelling thereof other than in the course of business, such as goods acquired for resale.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Malta and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid on the importation of goods). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the VAT department. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Maltese VAT if the following conditions are met:

- it is a supply of goods or services . Although the term ‘supply’ is not defined in the legislation, it has a broad interpretation
- the supply is made for consideration
- it takes place in Malta
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Malta, or is obliged to become registered
- it is made in the course or furtherance of any economic activity carried on by that person or entity.

There are four rates of VAT that are applied to goods and services in Malta; the standard rate, the special rate of 7% on licensed holiday accommodation, the reduced rate, and the zero rate. In addition, some goods and services are exempted from the VAT.

As from next year, the 7% rate will also apply to gym memberships, fitness centres, football nurseries and other similar set ups.

Businesses that make taxable, zero-rated and exempt supplies are unable to claim all the input tax that they incur and have to apply the partial attribution method to determine the amount of input VAT that they may recover.

Businesses that make solely exempt supplies are unable to claim any input tax that they incur, so the VAT paid to suppliers will be a ‘real’ cost.

Most goods imported into Malta from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the Community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in ‘free circulation’ and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.



## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of his economic activity must register for VAT in terms of article 10 if the value of its taxable supplies in Malta exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

For these purposes, a 'person' includes an individual and any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

Small businesses are still obliged to register in terms of article 11 to satisfy local requirements unless they opt to register in terms of article 10.

Taxable persons making solely exempt supplies and non-taxable legal persons must register for VAT in terms of article 12 if they exceed the intra-community acquisitions thresholds or receive services on which VAT is to be accounted for in Malta in terms of the reverse charge mechanism. They may also register on a voluntary basis.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses who are not established in the UK, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in Malta, irrespective of the level of turnover.

Registration for VAT in Malta may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either 35,000 euros or 100,000 euros per calendar year, or the equivalent in its own currency. Malta has adopted an annual threshold of €35,000.

Distance sales from another EU country to non-taxable persons in Malta will be subject to VAT at the appropriate rate in the suppliers' country. However, once the value of those distance sales to Malta exceeds the threshold of €35,000

- the supplier becomes liable to register for VAT in Malta
- Malta becomes the place of supply
- any further sales to customers in Malta are subject to Maltese VAT.

Suppliers can choose to make Malta the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

As from 1 January 2015, the place of supply for VAT of electronically supplied/digital services to private customers established or resident in Malta are considered to take place in Malta and a supplier that is not established in this country is obliged to account for and pay VAT in Malta.

Suppliers providing such services may opt to register for VAT in Terms of article 10 and account for VAT in the standard manner.

Alternatively they may register in terms of the Mini One Stop Shop (MOSS) special scheme. There are two types of scheme, one for suppliers established in the Community and one for those established outside the Community.

Suppliers established in an EU Member State, register in terms of this special scheme in their State of establishment and account for VAT due in Malta by using the said scheme.

Suppliers established outside the Community register in terms of the special scheme applicable to them in a Member State of their choice and account for VAT due in Malta in terms of this scheme.

## Does a non-established business need to appoint a fiscal representative in order to register?

- a) A person who is not established in Malta and is not established in the Community must appoint a fiscal representative in Malta if the said person is registered or is required to be registered in Malta for the purposes of VAT.

## How often do returns have to be submitted?

VAT returns (article 10) normally cover an accounting period of three months, ending on the last day of a calendar month. Businesses that are in a net repayment position (because of the nature of their activities) and those incurring exceptionally high expenditure (eg as a result of set up costs or a capital project) can apply to submit returns on a monthly basis to improve cash flow.

All VAT returns have to be submitted by the 15th day of the second following the month in which the VAT reporting period ends together with any tax due.

Where a person opts to submit the return electronically, taxpayers get a further seven days (in addition to the normal 30 days) in which to submit the return and pay the tax due.

Small businesses that register in terms of article 11 submit a prescribed form generally on an annual basis summarising their sales and costs for the relevant year.

Taxpayers registered in terms of article 12 submit the prescribed form. With respect to services received from suppliers established in other EU Member States or established outside the EU, the form together with payment of VAT is to be submitted by not later than the 15th day of the second month following either the date of invoice or the month during which the service was received, whichever is the earlier. Where during the relevant period, the taxpayer made intra-community acquisition of goods, the return and payment is to be submitted by the 15th day of the month following that during which the VAT became chargeable.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date. Interest is also chargeable on late VAT payments.

## Are any other declarations required?

Businesses that are registered for VAT in the UK, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs) also often referred to as the Recapitulative Statement. The ESLs must show details of the recipients of the goods and services and values per client, distinguishing between sales of goods and sales of services.

Generally, where the value of goods supplied to businesses in other EU member States exceeds €50,000 in the current or four previous quarters, the ESLs must be submitted each calendar month. Otherwise the document for goods is submitted for each calendar quarter.

ESLs for services should be submitted for each calendar quarter unless the taxpayer also supplies goods and has exceeded the threshold. In such cases, the ESL for services must also be submitted monthly.

ECLs may only be submitted electronically and have to be submitted within 15 days of the end of the relevant month or quarter.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought if the taxpayer fails to comply after being officially notified by the Commissioner.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Malta?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member States, and enables a business established in an EU country to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member State from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Malta or purchases of goods and services used in Malta. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in Malta
- he was not established in any EU country
- he made no supplies of goods and services in the UK other than certain specified exceptions
- where he is established in a third country having a comparable system of turnover taxes, unless the Maltese tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in Malta.

Claim forms have to be submitted to the Maltese tax authority by not later than the 30th June from the end of the calendar year in which the tax becomes chargeable.

### What information must a VAT invoice show?

A VAT invoice referred to as a tax invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address and VAT number, if applicable
- a description sufficient to identify the goods or services supplied to the customer
- discounts or rebates if not included in the unit price
- the total amount of VAT charged expressed in Euro.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately
- indicate the grounds on which no tax is chargeable such as stating exempt with credit or exempt without credit.

Where the customer is responsible for the payment of VAT, the tax invoice should include the wording 'Reverse Charge'.

Where any special arrangement applies such as the second hand scheme or travel agents margin scheme, the tax invoice must refer to the applicable scheme.

A simplified invoice may be issued if the value of the sale inclusive of VAT is equal to or less than €100.

In the case of sales made to persons not registered for VAT, suppliers are obliged to issue a fiscal receipt. Fiscal receipt booklets are issued by the Commissioner upon application.

Retailers do not issue tax invoices but must issue fiscal receipts for each and every sale from approved fiscal cash registers unless the Commissioner authorises them to avail of other systems such as the point of sale.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# The Netherlands

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 21% for most goods and services.</li> <li>• Reduced rate of 6% for goods and services including food (supplements); admission to sports and cultural events, books and many other.</li> <li>• Zero-rated goods and services.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in the Netherlands. It is a tax on consumer expenditure, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>   | Yes. It relates to the an annual amount VAT due, and once the limit has (or will be) reached it is necessary to register. Only applicable to natural persons.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. There is no registration limit for businesses that are not established in the Netherlands and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU) e.g. mail order and internet sales. |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In certain circumstances, a non-established person may be directed by the Dutch tax authority to appoint a fiscal representative.  |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit quarterly VAT returns. Returns can also be submitted on a monthly or yearly basis.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>   | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.   |





## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the Netherlands and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Dutch VAT if the following conditions are met:

- it is a supply of goods or services. Although the term ‘supply’ is not defined in the legislation, it has a broad interpretation
- it (is deemed to) takes place in the Netherlands
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in the Netherlands, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are three rates of VAT that are applied to goods and services in the Netherlands; the standard rate, the reduced rate, and the zero rate. Special rates may apply to farmers. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are – in general – unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a ‘real’ cost.

Most goods imported into the Netherlands from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules). However, it’s possible to postpone payment of import VAT to the periodic VAT return, hence no cash-flow occurs (referred to ‘article 23 license’).

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in ‘free circulation’ and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom and excise duty.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (i.e. where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (i.e. where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

Two or more corporate bodies can be registered together as a VAT group if

- each of the bodies is established, or has a fixed establishment, in the Netherlands
- they satisfy the 'control' test, ie one of them controls each of the others, or one person or a business partnership controls all of them
- each of the bodies perform more or less the same economic activities.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members (including former members) could be jointly and severally liable for the VAT debt of the group during the period of their membership.

## Does the same registration limit apply to non-established businesses?

Registration for VAT in the Netherlands may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. The Netherlands has adopted an annual threshold of €100,000.

Distance sales from another EU country to non-taxable persons in the Netherlands will be subject to VAT at the appropriate rate in the suppliers country. However, once the value of those distance sales to the Netherlands exceeds the threshold of €100,000

- the supplier becomes liable to register for VAT in the Netherlands
- the Netherlands becomes the place of supply
- any further sales to customers in the Netherlands are subject to Dutch VAT.

Suppliers can choose to make the Netherlands the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached. Non-EU entities would need to appoint a general VAT representative.

## Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in the Netherlands may direct a person to appoint a VAT representative to act on his behalf for VAT purposes where the person:

- is a taxable person or makes distance sales to the Netherlands
- is not established, and does not have a 'fixed establishment' in the Netherlands
- is established in a country or territory which is not an EU country (or part of such a country)
- in the case of an individual, he does not have his 'usual place of residence' in the Netherlands.

## How often do returns have to be submitted?

VAT returns normally cover a calendar quarter ending on the last day of a calendar month, taxpayers can apply to submit returns on a monthly basis.

All VAT returns have to be submitted within the end of next month following the relevant accounting period, together with any tax due. VAT returns have to be submitted electronically.

Non-resident business may file within the end of the second month following the relevant accounting period, together with the VAT due. As from 2014, VAT returns have to be submitted electronically.

## Are penalties imposed for the late submission of returns/payment of tax?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in the Netherlands?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member states, and enables a business established in an EU country to recover VAT incurred in another member state. To be eligible to make a claim, the claimant must be a taxable person established in an EU member state other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into the Netherlands or purchases of goods and services used in the Netherlands. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in the Netherlands
- he was not established in any EU country
- he made no supplies of goods and services in the Netherlands other than certain specified exceptions.

By exception, businesses may claim a refund of VAT dating back five years.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in Euros.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

Where a business makes retail sales and makes a sale of goods or services for €100 or less including VAT, a simplified VAT invoice can be issued.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Poland

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>Standard rate of 23% for most goods and services.</li> <li>Reduced rate of 5% and 8% for some goods and services.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Poland. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax ?</i>  | Yes. It relates to the annual turnover of taxable transactions in Poland, and once the limit has (or will be) reached it is necessary to register.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. There is no registration limit for businesses that are not established in Poland and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU), eg mail order and internet sales. |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In certain circumstances, a non-established person may be directed by Polish tax authority to appoint a fiscal representative.   |
| <i>How often do returns have to be submitted?</i>   | Most businesses submit VAT returns covering monthly accounting period. Returns can also be submitted on a quarterly basis.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Polish Fiscal Penal Code stipulates certain penalties for late submission of returns and late payment of tax. There is no any particular extra penalty for late submission of returns or late payment of tax. The taxpayer is obliged to settle VAT plus interest. He may also be punished by tax authority for criminal offence.          |
| <i>Are any other declarations required?</i>   | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions according to Penal Fiscal Code.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.   |





### Deduction of VAT

The rule is that to the extent to which goods and services are used for carrying out taxable activities, the taxpayer shall enjoy the right to reduce the amount of output tax by the amount of input tax.

The reduction of the amount and the refund of the difference of the output tax shall not apply to the following items being acquired by the taxpayer:

- accommodation and catering services except for the purchase of prepared meals for passengers by taxpayers providing the passenger transport services
- in the case of expenditures related to motor vehicles, the input tax amount shall be 50% of the tax amount resulting from the invoice received by the taxpayer.

### Are there any specific rules for decreasing output VAT in case the correction invoice is issued?

Yes, in Poland it is important to obtain the proof that the recipient of the correction invoice received it. Only under this condition output VAT may be decreased.

In the cases price reduction or returning of the goods, the tax base shall be reduced, in relation to the tax base shown in the invoice which has already been issued and which shows the tax, provided that the taxpayer is in possession, before the lapse of the time limit for filing the tax return for a given settlement period during which the acquirer of goods or service recipient received a corrective invoice, of the confirmation of the receipt of the corrective invoice by the acquirer of goods or service recipient to which the invoice was issued. If the taxpayer obtains the confirmation of receipt by the acquirer of goods or service recipient of the corrective invoice after the time limit for filing the tax return for a given settlement period, he shall be entitled to take account of the corrective invoice for the settlement period during which such a confirmation has been obtained.

This rule shall apply accordingly if any error is found in the amount of the tax shown in the invoice and if the corrective invoice is issued in respect of the invoice in which the tax amount shown was higher than the due one.

The condition of possessing by the taxpayer of the confirmation of receipt of the corrective invoice by the acquirer of goods or services recipient shall not apply:

1. in the case of export of goods and intra-Community supply of goods
2. in the case of supply of goods and provision of services whose place of taxation is located outside the territory of the country
3. in the case of the sale of: electricity, heating or cooling energy, pipeline gas, telecommunication services and the services listed under items 140 to 153, 174 and 175 of Schedule 3 to the Act
4. if the taxpayer has not obtained the confirmation, despite documented attempts to hand in the corrective invoice and it appears from the documentation they hold that the acquirer of goods or service recipient is aware that the transaction has been carried out in accordance with the conditions specified in the corrective invoice.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Poland and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, i.e. the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Polish VAT if the following conditions are met:

- it is a supply of goods or services. The supply of goods shall be understood as transfer of the right to dispose of the goods as their owner. The provision of services shall be understood as each performance for the benefit of a natural person, legal person or organizational unit without legal personality which does not constitute supply of goods.
- it takes place in Poland
- it is made by a taxable person. Taxpayers shall be legal persons, organizational units without legal personality and natural persons, who individually carry on the economic activity regardless of the purpose or results of such activity. Economic activity shall include any activity of manufacturers, traders or service providers, including the subjects acquiring natural resources and farmers, as well as the activity of persons practising liberal professions. Economic activity shall particularly include activities consisting in using goods or intangible fixed assets in a continuous manner for profit-gaining purposes.



There are three rates of VAT that are applied to goods and services in Poland; the standard rate, the reduced rates, and the zero rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Poland from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

### Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in Poland exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

The sale carried out by taxpayers for which the total sales value did not exceed in the preceding tax year the amount of 150,000 PLN shall be exempt from tax. The value of sales shall not include the tax amount.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

### Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses who are not established in Poland, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in Poland, irrespective of the level of turnover.

Registration for VAT in Poland may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €5,000 or €100,000 per calendar year, or the equivalent in its own currency. Poland has adopted an annual threshold of 160,000 PLN.

Distance sales from another EU country to non-taxable persons in Poland will be subject to VAT at the appropriate rate in the suppliers' country. However, once the value of those distance sales to Poland exceeds the threshold of 160,000 PLN:

- the supplier becomes liable to register for VAT in Poland
- Poland becomes the place of supply
- any further sales to customers in Poland are subject to Polish VAT.

Suppliers can choose to make Poland the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is a special scheme for telecommunication, broadcasting or electronic services supplied by subjects having their seat of economic activity in the EU but not having such a seat in a member state of consumption, to persons not being taxpayers.

A taxpayer providing telecommunication, broadcasting or electronic services to persons not being taxpayers, having their seat, permanent place of residence or ordinary place of stay in a Member State of consumption, may submit a notification indicating the intention to make use of the special VAT-settlement scheme in the Member State in which it has:

1. its seat of economic activity
2. a permanent place of carrying on economic activity, if it does not have its seat of economic activity in the territory of the EU
3. a permanent place of pursuing economic activity and that it chooses for the purpose of submission of the notification, if it does not have its seat of economic activity in the territory of the European Union, but has more than one permanent place of pursuing economic activity in the territory of the EU.

Where Poland is the member state of identification, the notification shall be filed with the head of the second revenue office by electronic communication means.

Taxpayers identified for the purposes of a special VAT-settlement scheme shall be obliged to file by electronic communication means returns for the purposes of VAT settlement, hereinafter referred to as VAT returns, with *Drugi Urz d Skarbowy Warszawa-Srodmiestcie* [the Second Revenue Office Warsaw-Centre].

VAT returns shall be submitted for quarterly periods, by the 20th day of the month following each subsequent quarter.

Taxpayers identified for the purposes of a special VAT-settlement scheme shall be obliged to keep in electronic form records of the transactions covered by the special VAT-settlement scheme, in accordance with the requirements referred to in Article 63 c of Regulation No 282/2011.

The VAT records referred to shall be stored for the period of ten years from the end of the year in which the telecommunication, broadcasting or electronic services were provided.

### Does a non-established business need to appoint a fiscal representative in order to register?

The taxpayer not having his seat of economic activity or permanent place of carrying on economic activity in the territory of a Member State, which is subject to the duty to register as an active VAT payer, shall be obliged to appoint a tax representative.

The taxpayer having his seat of economic activity or permanent place of carrying on economic activity in the territory of a Member State other than the territory of the country may appoint a tax representative.

The minister competent for public finance may, by regulation, specify the cases in which there is no need to appoint a tax representative, taking into account the need to ensure a correct tax settlement by subjects not having their seats of economic activity or permanent place of carrying on economic activity in the territory of a member state.

### How often do returns have to be submitted?

The taxpayers shall be obliged to submit their tax returns to the revenue office monthly, by the 25th day of the month following each subsequent month.

The taxpayers may also submit tax returns quarterly having notified the head of a revenue office thereof in writing at the latest by the 25th day of the second month of a quarter for which a quarterly tax return is to be filed for the first time. A taxpayer who, during a tax year, starts carrying out taxable acts, shall make the notification referred to in the first sentence by the 25th day of the month following the month during which he/she started performing these acts.

### Are penalties imposed for the late submission of returns/payment of tax?

Polish Fiscal Penal Code stipulates certain penalties for late submission of returns and late payment of tax.

However there is no any extra penalty added to the tax. Only penalty interest are calculated and taxpayer is obliged to pay it. It taxpayer pays late VAT by himself he has to calculate the interests according to proper rate established by law (currently it is 8% per annum). However if tax authority finds out the irregularity, the penalty interests increase to 150% of rate therefore now it is 12% per annum.

### Are any other declarations required?

Businesses that are registered for VAT in Poland, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

Collective information shall be submitted for monthly periods, by the 15th day of the month following the month in which the tax liability in respect of certain transactions arose.

Summary information submitted by electronic communication means shall be submitted by the 25th day of the month following the month in which the tax liability in respect of certain transactions arose.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules. These penalties come from Penal Fiscal Code.

Penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Poland?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member States, and enables a business established in an EU country to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member State from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Poland or purchases of goods and services used in Poland. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in Poland
- he was not established in any EU country
- he made no supplies of goods and services in Poland other than certain specified exceptions
- where he is established in a third country having a comparable system of turnover taxes, unless the Polish tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in Poland.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in PLN

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately
- show clearly the provision of the Act or an instrument issued under the Act on the basis of which the taxpayer applies tax exemption or the provision of Directive 2006/112/EC which exempts such supply of goods or such provision of services from tax or other legal grounds indicating the fact that supply of goods or provision of services is subject to tax exemption.

Where a business makes retail sales and makes a sale of goods or services for €00 or less including VAT, a simplified VAT invoice can be issued.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services. The authenticity of the origin and integrity of the content of an electronic invoice are guaranteed, in particular, by means of:

1. an advanced electronic signature within the meaning of Article 3, subparagraph 2 of the Act of 18 September 2001 on Electronic Signature (Dziennik Ustaw 2001, No. 130, item 1450, as amended), verifiable by means of a valid qualified certificate; or
2. electronic data interchange (EDI) in accordance with the European Model EDI Agreement, where the agreement relating to the exchange provides for the use of procedures guaranteeing the authenticity of the origin of invoices and integrity of their data.

The use of electronic invoices shall be subject to acceptance by the invoice recipient.

The invoices shall be drawn up in at least two copies, one of which is issued to the acquirer and the other one is kept in files by the taxpayer affecting the sale.

The invoice shall be issued not later than on the 15th day of the month following the month in which the goods or services were supplied (general rule, the exceptions refer to specific transactions).

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# Portugal

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 23% for most goods and services (22% in Madeira and 18% in Azores).
- Intermediate rate of 13% (12% in the Autonomous Region of Madeira and 9% in the Autonomous Region of Azores) — applies to a specific list which includes for example preserved produce of fish and meat, bottled water, table wine, tickets to specific shows (singing, dancing, music, theatre, cinema, etc.).
- Reduced rate of 6% (5% in the Autonomous Region of Madeira and 4% in the Autonomous Region of Azores) — applies to agriculture or farm produce, newspapers and magazines, medication, products for agricultural use, passenger transport, hotel accommodation and certain entertainment forms, public works contracts, etc.
- Exempt supplies — an extensive list including the following broad categories: insurance and financial activities, renting and sale of real estate, medical and veterinary services, education, health and welfare, etc.

### *Are there any confirmed or anticipated changes to these rates?*

No.

### *What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in Portugal, being generally applicable to the supplies of goods and/or services. As such, it is a tax on consumer expenditure, and is collected on business transactions and imports.

### *Is there a registration limit for the tax?*

No.

### *Does the same registration limit apply to non-established businesses?*

There is no registration limit for businesses that are not established in Portugal and they will need to register as soon as they start carrying out taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU), eg mail order and internet sales.

### *Does a non-established person need to appoint a fiscal representative in order to register?*

A non-EU established person is obliged to appoint a Portuguese tax representative. For EU-residents, such appointment is not compulsory.

### *How often do returns have to be submitted?*

Depending on the turnover, returns can be submitted quarterly or monthly.

### *Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can and is usually imposed.





*Are any other declarations required?*

Yes. Additional declarations (EC Sales and Services List or ESLs) have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors, omissions or failures.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Portugal and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

There are three rates of VAT that are applied to goods and services in Portugal; the standard rate, the intermediate rate and the reduced rate. In addition, some goods and services are exempted from the tax (with or without right to deduction of the input VAT).

In general, businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Portugal from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (i.e. where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (i.e. where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Is there a registration limit for the tax?

No. A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT as soon as it starts its operations.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities is very different.

Apart from very specific situations, there is no VAT grouping in Portugal.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

There is no registration limit either for established or non-established businesses. All businesses will need to register for VAT as soon as they commence trading in Portugal, irrespective of the level of turnover.

Registration for VAT in Portugal may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 euros per calendar year, or the equivalent in its own currency. Portugal has adopted an annual threshold of €35,000.

Distance sales from another EU country to non-taxable persons in Portugal will be subject to VAT at the appropriate rate in the supplier's country. However, once the value of those distance sales to Portugal exceeds the above mentioned threshold of €35,000:

- the supplier becomes liable to register for VAT in Portugal
- Portugal becomes the place of supply
- any further sales to customers in Portugal are subject to Portuguese VAT.

Suppliers can choose to make Portugal the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

## Is there any specific legislation to tax non-resident suppliers of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT Mini One Stop Shop (MOSS) simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Does a non-established business need to appoint a fiscal representative in order to register?

It is mandatory to appoint a fiscal representative herein in case the person is established outside the EU.

## How often do returns have to be submitted?

Businesses whose annual turnover is more than €650,000 must prepare and file monthly returns within one month and ten days of the end of each month.

Businesses whose annual turnover is less than €650,000 must prepare and file quarterly returns within one month and fifteen days of the end of each quarter.

Annual returns must be submitted by the 15th of July of the following calendar year (this return is a summary of the periodic VAT returns filled).

## Are penalties imposed for the late submission of returns/payment of tax?

Returns which are filed late can be fined between €300 and €3,750. However, reductions are applicable under certain conditions.

Late payments are subject to interest at the rate of 4% per year of the tax and a penalty ranging between 30% and 100% of the tax due is normally applicable.

## Are any other declarations required?

Businesses that are registered for VAT in Portugal and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit ESLs. The ESLs must show details of the recipients of the goods and services.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations) or makes repeated mistakes.

Criminal proceedings may be brought in the case of serious damages caused to the Portuguese tax authorities.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Portugal?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances. Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member states, and enables a business established in an EU country to recover VAT incurred in another member state. To be eligible to make a claim, the claimant must be a taxable person established in an EU member state other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Portugal or purchases of goods and services used in Portugal. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- they were not registered or liable to be registered for VAT in Portugal
- they were not established in any EU country
- they made no supplies of goods and services in Portugal other than certain specified exceptions
- where they are established in a third country, having a comparable system of turnover taxes that country provides reciprocal arrangements for refunds to be made to taxable persons established in Portugal.

## What information must a VAT invoice show?

Invoices issued by VATable persons must be dated, sequentially numbered and contain the following data:

1. Name, address and tax number of both the supplier and the acquirer of the goods and/or services.
2. Quantity and description of the goods and/or services supplied (including the necessary information that enables the determination of the applicable VAT rate).
3. Taxable amount.
4. Applicable VAT rate and the amount of VAT charged.
5. Grounds for the non-application of VAT; if applicable.
6. The date in which the supply of goods and/or services took place (or the date in which any advanced payment was made, if such date is not the same as the date of issuance of the invoice).

Please note: if the operation(s) at stake, concerns goods and/or services subject to different VAT rates, the data referred on bullets 2, 3 and 4 above shall be indicated separately, according to the respective applicable rate.

Disclosing the name and address of the acquirer of the goods and/or services, when it does not refer to a VATable person, is not mandatory on invoices whose amount is lower than €1,000, unless otherwise requested.

Disclosing the acquirer's tax number, when it does not refer to a VATable person, is always mandatory when requested.

Where a business makes retail sales and makes a sale of goods or services for €100 or less including VAT, a simplified VAT invoice can be issued (with less strict requirements)

VAT invoices can be issued, received and stored in electronic format and there is no need to inform the Portuguese tax authorities upfront. Electronic invoices must contain the same information as paper invoices.

The method used to ensure the authenticity of origin, the integrity of the content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Romania

## Indirect tax snapshot

### *What are the current rate(s) of indirect tax?*

- Standard rate of 20% for most goods and services.
- Reduced rate of 9% for some goods and services including medicines for human and vegetarian use, accommodation in hotels, human and animal food, restaurant and catering activities, supplies of drinkable water.
- Reduced rate of 5% applies for supply of books, newspapers and magazines, school textbooks, with the exception of those intended solely or mainly for publicity, services consisting of admission to castles, museums, memorial houses, historical, architectural and archaeological monuments, zoos, botanical gardens, fairs, exhibitions and similar cultural and sports events, cinemas, supplies of buildings if they are part of a social policy or if they are supplied as housing to an individual/family in certain conditions.

### *Are there any confirmed or anticipated changes to these rates?*

According to the New Tax Code in force starting 2016, the standard VAT rate will be 19% starting with 2017.

### *What is the principal indirect tax?*

The main indirect tax in Romania is value added tax (VAT). Although VAT has generally been harmonised within the European Union by various European Commission directives, there are still a lot of different practises, habits and loopholes in the individual countries. The VAT legislation in Romania follows the structure of the European VAT Directive.

### *Is there a registration limit for the tax?*

Yes. The annual turnover threshold for VAT registration is the RON equivalent of €65,000, and once the limit is reached, it is necessary to register.

### *Does the same registration limit apply to non-established businesses?*

No. There is no registration limit for businesses that are not established in Romania and they will need to register before commencing the taxable transactions. Different registration requirements also apply to businesses involved in 'distance sales' made within the European Union (EU), e.g. mail order and Internet sales, for which the threshold for VAT registration in Romania is of €35,000.

### *Does a non-established person need to appoint a fiscal representative in order to register?*

A non-established person, who is established outside EU, must appoint a fiscal representative for VAT registration in Romania. A taxpayer who is not established in Romania, but it is established in other EU member state may either register directly or appoint a fiscal representative.

### *How often do returns have to be submitted?*

Taxpayers must file VAT returns with the Romanian tax authorities and pay VAT on a monthly basis, specifying the taxable amount and the tax due. The tax return must be filed and the respective VAT paid by the 25th of the following month. In case of taxpayers whose annual turnover is less than €100,000 the VAT returns should be submitted with the tax authorities on a quarterly basis.

### *Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late, a penalty and interest are imposed.



*Are any other declarations required?*

Yes. Taxable persons registered for VAT purposes have to submit the recapitulative statement regarding intra-community purchases/supplies of goods/services (EC Sales List). Also, taxable persons registered for VAT purposes in Romania must submit a declaration including all supplies/acquisitions of goods/services taking place in Romania to or from other taxable persons registered for VAT purposes in Romania (i.e. list of domestic transactions). For the intra-community trade of goods, taxable persons also have to submit an Intrastat statistical report.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

## What is the principal indirect tax?

The main indirect tax in Romania is Value Added Tax (VAT).

The VAT is an indirect tax on the consumption of goods and services and is normally borne by the final consumer. This, in general, is accomplished by imposing VAT on all stages of manufacturing, wholesaling, retailing, etc., but allowing the supplier to offset the tax payable against VAT incurred on its business expenses.

In practice, VAT is charged on goods and services (actual or deemed) supplied by taxpayers in Romania, goods acquired from the European Union (EU) and on goods imported into Romania. Only the VAT charged by the suppliers on purchases incurred by the taxpayer for generating taxable activities can be deducted.

Operations which fulfil the following conditions fall within the scope of VAT:

- they represent a supply of goods/services in return for a consideration or an operation treated as such
- the deemed place of supply is in Romania
- they are performed by taxable persons
- they result from economic activities.

Moreover, the import of goods, intra-community acquisitions of goods and operations deemed as intra-community acquisitions of goods are also within the scope of VAT.

VAT on imported goods continues to be paid in customs, except for taxable persons registered for VAT purposes that obtain an import VAT deferment certificate from the customs authorities. For these, the VAT is not paid in customs, but shown in the VAT return as both input and output VAT (reverse charge mechanism).

The taxable amount for VAT purposes for imported goods is the customs value, to which customs duties, excise duties (if any) and ancillary expenses, such as commissions, packing, transport and insurance costs occurring subsequent to the entry of goods into Romania until their first destination, as well as those incurred for the transport to another destination place within the Community, if the place is known at the moment of the import, are added.

As of 1 January 2013, the cash accounting scheme for VAT was introduced in the Romanian VAT legislation and consist in the deferment of the VAT payment until the value of goods or services delivered is cashed in, while the right to deduct the input VAT for the acquisitions performed by the taxpayers applying the VAT cash accounting system is also postponed until the moment when the invoices are paid. Furthermore, the right to deduct the input VAT by the beneficiaries of invoices issued by the taxpayers applying the cash accounting system for VAT is postponed until the payment is performed.

The VAT cash accounting system is optional for taxpayers with an annual turnover lower than RON 2,250,000 registered in the previous calendar year, and for newly established companies. By exception, the system does not apply for taxpayers which are part of a fiscal group, for taxpayers who are not established for VAT purposes in Romania or for taxpayers whose turnover exceeds the aforementioned threshold. Likewise, the VAT cash accounting system does not apply for VAT exempted transactions, for transactions subject to special VAT schemes (e.g. the special schemes for travel agencies, second-hand goods, works of art, gold investments), for transactions performed between related parties or for those subject to reverse charge mechanism (i.e. when the beneficiary is the person obliged for paying the VAT). Moreover, the system does not apply for intra-community operations, imports or exports.

### Is there a registration limit for the tax?

The annual turnover threshold for VAT registration is the RON equivalent of €65,000, computed by using the foreign exchange rate of the date of Romania's accession to the EU (i.e. RON 220,000). When calculating the turnover, revenues derived from some types of VAT exempt transactions without deduction right operations are also taken into consideration, if they are not considered ancillary to the main transactions.

As of 1 February 2012, companies which are legally independent but are closely related in terms of financial, economic and organisational purposes may opt to be treated as a tax group as long as they are administered by the same competent fiscal body. The following conditions should also be met:

- a taxable person is allowed to be part of only one single tax group
- the option must refer to at least two-year period
- all the taxable persons within a group must apply the same fiscal period.

The VAT group may be formed of minimum two taxable persons. The following shall be deemed closely inter-related from a financial, economic and organisation perspective: taxable persons whose capital is directly or indirectly held in proportion of more than 50% by the same shareholders.

The competent tax authority shall take an official decision whereby approving or rejecting the implementation of the VAT group and shall notify the decision to the group representative within 60 days as of the receipt of the application.

As of implementation of the single tax group, each member of the tax group, other than the representative has the following obligations:

- shall report in the VAT return any supply of goods, or services, import or intra-Community acquisition of goods or any other transaction carried on by or to the benefit of such member throughout the tax period
- shall send his VAT return to the representative, and a copy thereof to the tax authorities of jurisdiction
- shall not pay any tax due and shall not request any refund according to his VAT return.

The representative has, in its turn, the following obligations:

- shall report in the VAT return any supply of goods or services, import or intra-Community acquisition of goods or services and any other transaction carried on by or to the benefit of such member throughout the tax period
- shall report in a consolidated return the results of all VAT returns received from other members of the tax group as well as the result of his own VAT return for such tax period

- shall file with the tax authorities of jurisdiction all VAT returns of members as well as the consolidated VAT return
- shall pay or, if applicable, shall request VAT refund resulting from the consolidated VAT return.

Each member of the tax group shall:

- file the recapitulative statement (EC Sales List) to the tax authorities of jurisdiction
- be subject to the audit of the tax authorities of jurisdiction
- be liable jointly and severally for any tax due by him or by any member of the tax group for the entire membership to such group.

Supplies of goods and services made by each member of the group shall be subject to the normal tax scheme, regardless whether they are made to third parties or to the other members of the tax group, each member of the group being considered a separate taxable person..

### Does the same registration limit apply to non-established businesses?

Foreign taxpayers may register in Romania for VAT purposes without the need to form a local company – known as non-resident VAT trading. There is no VAT threshold in Romania for the registration of non-resident traders. For businesses incorporated in other countries, but established for VAT purposes in Romania by mean of a fixed establishment, a Romanian VAT number must be obtained before the commencement of taxable supplies.

Foreign traders not established for VAT purposes in Romania have an obligation to register for VAT purposes in Romania for making:

- supply of goods or services in Romania that is subject to Romanian VAT or are considered exempt with credits, except for the cases where the person who is liable to pay the tax is the beneficiary of goods or services
- intra-community acquisitions/supplies of goods in/from Romania
- distance sales to Romania exceeding the registration threshold.

Not-established VAT payers may register for VAT purposes in Romania for performing importation of good, as well as transactions with immovable properties for which they chose to apply the taxation regime.

In case of distance sales made from a Member State to Romania the place of supply shall be considered in Romania, provided that the supply is made by an acquiring taxable person or a non-taxable legal entity, or by any other non-taxable person and provided that the following conditions are met:

- the total amount of distance sales whose transport or dispatch in Romania is made by a supplier in the calendar year when a distance sale takes place, inclusively of that distance sale, or in the previous calendar year, exceeds the ceiling for distance sales of EUR 35,000, whose RON equivalent is set out in the Norms; or
- the supplier opted in the Member State wherefrom goods are transported for the consideration of its distance sales involving transport of goods from a Member State to Romania as taking place in Romania.

The ceiling shall not apply to distance sales of products subject to excises from a Member State to non-taxable persons from Romania, other than non-taxable legal entities, thus the place of supply for such distance sales shall always be in Romania.

The procedure for distance sales also applies in the reverse situation, where a trader sells goods from Romania to private individuals or non-taxable entities who reside in other EU member states.

The distance sales rule does not apply to the supply of new means of transportation or to the supply of goods under a 'supply and installation' contract or other specific exceptions.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT Mini One Stop Shop (MOSS) simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of identification). However, the MOSS cannot be used to report

local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

### Does a non-established business need to appoint a fiscal representative in order to register?

Non-residents EU taxable persons, not established in Romania may register with the relevant fiscal authority either directly, or by appointing a fiscal representative. In the case of the direct registration, this person shall declare the address in Romania where all the fiscal registers and documents can be examined. In case of registration through a fiscal representative, the registration procedures are carried out by the relevant tax authority where the fiscal representative is located.

Non-resident taxpayers established outside the European Union may register for VAT purposes, only through appointment of a VAT fiscal representative. The registration procedures are carried out by the relevant tax authority where the fiscal representative is located.

### How often do returns have to be submitted?

Every taxable person registered for VAT purposes has to submit VAT returns.

As a general rule, the fiscal period for submitting the VAT returns is the calendar month. For taxable persons registered for VAT purposes whose previous year-end turnover did not exceed €100,000 the fiscal period is the calendar quarter.

For those taxpayers whose fiscal period is the calendar quarter, the fiscal period becomes the calendar month if they perform a taxable intra-community acquisition of goods in Romania.

Also, the VAT returns must be submitted with the tax authorities by the 25th of the month following the end of the fiscal period (i.e. month / quarter). The payment of the tax must be performed by the same date as the date of submission with the tax authorities.



## Are penalties imposed for the late submission of returns/payment of tax?

For not complying with the VAT legal requirements (late payments, incorrect fillings, late submission of returns, etc.), taxpayers are subject to penalties such as interest and fines as provided by the Romanian Tax Procedure Code.

As of 1 January 2016, the late-payments are subject to interests computed by applying a rate of 0.02% for each day of delay, as well as late payment penalties computed by applying 0.01% per day to the overdue tax liabilities. Also, in case the tax authorities establish differences of VAT by issuing a tax decision following a tax inspection, besides late payment interests and penalties, such differences are subject to a penalty for incorrectly declaring the tax liabilities, computed by applying 0.08%/day to the differences established by the tax authorities. The penalty for incorrectly declaring the liabilities is limited to the value of the principal, except for the cases of tax evasion.

For a late submission of the tax return there is a fine ranging between RON 1,000-5,000 (approximately €222-€1,111, at an average FX rate of 1 EUR = 4.5 RON).

## Are any other declarations required?

Taxable persons registered for VAT purposes in Romania should submit a declaration including all supplies/acquisitions of goods/services taking place in Romania to or from other taxable persons registered for VAT purposes in Romania (form 394).

The taxable persons should also submit the recapitulative statement (EC Sales List) on a monthly basis, not later than the 25th day of the month following that in which the intra-community supply/ acquisition of goods or services has occurred, for all intra-community operations made with taxable persons established in other member states.

The recapitulative statements are to be submitted only for the periods during which a chargeability of the tax occurs (no nil-return is required).

The obligation to provide Intrastat statistical data is applicable to all economic operators that simultaneously meet the following conditions:

- are registered for VAT purpose
- trade goods with other member states of the EU
- the total annual value of goods trade with other member states of the EU for each of the two flows, acquisitions and dispatches, respectively, exceeds the annual Intrastat thresholds as approved by the law.

Companies, which in the previous year exceeded the value of thresholds set up for the current year, will send Intrastat declarations for all months of the current year. Companies, which in the current year exceed the value of thresholds, will send Intrastat statements starting with the month in which they exceeded the thresholds.

The statistical thresholds are set separately for each type of movement of goods and may have different values for acquisitions and dispatches of goods. For the year 2013, Intrastat thresholds were:

- for intra-community dispatches: RON 900,000 (approximately €200,000, at an average FX rate of 1 EUR = 4.5 RON)
- for intra-community arrivals: RON 500,000 (approximately €111,111, at an average FX rate of 1 EUR = 4.5 RON).

The Intrastat statistical return must be filed on a monthly basis no later than the 15th of the month following the reporting month. Complete forms should include details such as the trade classification of the goods, quantities, shipping costs, countries of departure and arrival, etc.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

### Failure to register for VAT purposes

If an entity has the obligation to register for VAT purposes in Romania and does not comply with this requirement, the competent tax authority shall register that entity without application. If the entity performs taxable supplies, and it is in VAT payable position (i.e. the output VAT for its taxable transactions is higher than the input VAT for its purchases), late payment interest and penalties will be applied.

### Failure to submit/correctly declare the EC sales and acquisitions

Late submission of recapitulative statements will impose a penalty between RON 1,000-5,000 (approximately €222-€1,111, at an average FX rate of 1 EUR = 4.5 RON).

For incorrect filling of the recapitulative statements, the tax authorities will impose a penalty between RON 500-1,500 (approximately €111-€333, at an average FX rate of 1 EUR = 4.5 RON).



## Fraud

Moreover, the following tax offences are criminal or minor offences:

- tax evasion is committed if a taxpayer intentionally gives incorrect or incomplete information to the tax authorities or if he withholds information necessary to calculate the correct tax liability
- evasion of import duties (including import VAT)
- minor offences.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Romania?

Taxable persons not registered and which do not have the obligation to register for VAT purposes in Romania may request a VAT reimbursement from Romania based on the refund request transmitted electronically to the authorities from the member state where they are registered no later than 30 September of the year following the reimbursement period.

The settlement period is of four months from the date when the request is received by the Romanian authorities, with an option to be extended if the tax authorities require further information.

Taxable persons established outside the EU also have the right to claim a VAT refund from Romania, based on reciprocity agreements signed by Romania.

## What information must a VAT invoice show?

The mandatory information that must be included on an invoice is in line with the provisions of the EU VAT Directive 112/2006 on this matter, as follows:

- a sequential number, according to one or more series, that uniquely identifies the invoice
- the date when the invoice is issued
- the date when the goods/services were supplied or the date when the advance was cashed, if the latter date differs from the date when the invoice was issued
- the name, address and VAT ID number or, on a case-by-case basis, the tax number of the taxable person issuing the invoice
- the name of the supplier not established in Romania which appointed a tax representative, as well as the name, address and VAT ID number of such tax representative
- the name and address of the beneficiary of goods/services, as well as the VAT ID number or the tax number of the beneficiary, in case the beneficiary is a taxable person or a non-taxable legal entity
- the name of the beneficiary not established in Romania which appointed a tax representative, as well as the name, address and VAT ID number of the tax representative
- the name and the quantity of goods supplied, the name of the services supplied, as well as the relevant details for defining the goods, in case of intra-Community supplies of new transport means
- the taxable base of goods and services or, on a case-by-case basis, the advances cashed, for each tax rate, exemption or non-taxable operation, the unit price, excluding VAT, as well as the discounts and other price reductions, in cases where they are not included in the unit price
- the applicable VAT rate and the output VAT amount, in the Romanian local currency – RON, depending on the applicable VAT rate
- in case the invoice is issued by the beneficiary on account and on behalf of the supplier, the mention „self-invoice€
- in cases where no VAT is due, the indication of the relevant article from the Tax Code/EU Directive 2006/112/EU or any other mention showing that the respective supply of goods/services is VAT exempt or subject to the reverse charge mechanism
- in cases where the client is the person liable to pay the VAT, the mention „reverse charge
- in case the special regime for travel agencies is applicable, the mention „the margin scheme – travel agents
- if one of the special regimes for second-hand goods, works of art, collector's items and antiquities applicable, one of the mentions „the margin scheme – second-hand goods“, „the margin scheme – works of art“, „the margin scheme – collector's items and antiques“, as the case may be
- in case the VAT chargeability occurs at the cashing date for whole or partial counter-value of the supply of goods/services, the mention „cash accounting for VAT
- a reference to prior invoices or documents issued, in case more than one invoice or document is issued for the same operation.

As of 1 January 2013, new rules regarding the invoicing procedure have been introduced establishing equal treatment for hard copy or electronic invoices meeting the same requirements. Therefore, any hard copy or electronic document is considered an original invoice if it meets the minimum mandatory requirements concerning the layout of the invoice.

An electronic invoice is defined under the Romanian VAT legislation as any invoice, containing all the elements required by domestic VAT provisions, that is issued and received in electronic format.

The type of the electronic format for the invoice is up to the company decision, (e.g. xml, pdf, etc.).

According to the Romanian VAT legislation, the manner in which the authenticity, integrity and legibility are guaranteed is, in principle, decided at the level of the taxable persons. Thus, the authenticity of origin, the integrity of the content and the legibility may be guaranteed through management controls only, that set audit trails ensuring a direct connection between a transaction, the corresponding invoice and other documents issued in connection with that transaction. Besides management controls, the authenticity of origin and the integrity of the content could be guaranteed by means of an electronic signature or by using of Electronic Data Interchange system.

The use of the electronic invoice is subject to the acceptance of the recipient. Acceptance may include the following: (i) a written agreement, received from the recipient; (ii) an implicit agreement of the recipient consisting in proceeding to the processing or the payment of the electronic invoice.

Moreover, the recipient's acceptance also represents a confirmation that it has the necessary technical resources to receive electronic invoices, as well as the capacity to ensure the authenticity of origin, integrity of the content and legibility.

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# Russia

## Indirect tax snapshot

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|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>The standard VAT rate in Russia is 18%.</li> <li>VAT rate of 10% applies to certain foods, children's goods, medical and pharmaceutical products, certain books and periodicals and services for the internal air transportation of passengers and baggage.</li> <li>0% VAT rate is applied for export of goods, their international transportation and related freight forwarding services, international passenger transportation, etc.</li> <li>Computed VAT rates (10/110 and 18/118) are applied to certain transactions including the receipt of advance, transfer of property rights and to withholding VAT by the tax agents.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Russia. It is applied to sales of goods, work and services in the territory of the Russian Federation, imports to the customs territory of the Russian Federation, transfer of goods for own consumption, performance of construction and assembly work for own purposes.  |
| <i>Is there a registration limit for the tax?</i>  | The current tax legislation does not provide for a separate VAT registration with Russian tax authorities. The established general tax registration requirements are applicable to all taxes, including VAT. All taxpayers are required to obtain tax registration and be assigned a taxpayer identification number regardless of the amount of taxable supplies.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Not applicable.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | Not applicable.   |
| <i>How often do returns have to be submitted?</i>  | VAT returns should be submitted quarterly.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.   |
| <i>Are any other declarations required?</i>  | Yes. Companies and individual entrepreneurs that import goods from the territory of Belarus and Kazakhstan should submit a special VAT return to the tax authorities.   |



|   |   |
|---|---|
| <i>Are penalties imposed in other circumstances?</i>  | Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No, only taxpayers, who obtained tax registration and perform taxed activity in Russia, are allowed to reclaim input VAT.   |
| <i>Deduction of VAT</i>   | <p>The amount of tax payable to the budget shall be calculated as the VAT accountable on transactions subject to VAT minus VAT incurred on purchases subject to VAT.</p> <p>But input VAT cannot be deducted from VAT base in the several cases:</p> <ul style="list-style-type: none"> <li>• on purchases of goods (works and services) and property rights which are used in non-taxed activities</li> <li>• on some business expenses that are limited for corporate income tax deduction (for example fuel for cars, business entertainment and travel, conferences, advertising, mobile phone expenses, etc.)</li> </ul> |

## What is the principal indirect tax?

Value Added Tax (VAT) is the principal indirect tax in the Russian Federation.

VAT is a type of indirect tax which is charged on the final consumption of certain goods and services in the home market but is collected at every stage of production and distribution. Liability for VAT rests with the person supplying the taxable goods, works or services or importing goods into Russia.

However, the supplier is allowed to deduct from his VAT liability on sales made the amount of VAT paid and properly invoiced to him in relation to purchases effected by him, or VAT paid by him at importation. The actual burden of the tax is therefore borne by the final consumer.

VAT is a federal tax and is payable to the federal budget of the Russian Federation.

Taxpayers are Russian companies, foreign companies and entrepreneurs without forming a legal entity. Taxpayers with taxable supplies below RUB 2 000 000 (approx US\$ 30,000, VAT exclusive) in a three preceding months period are not recognized taxable persons unless their taxable supplies exceed the mentioned limit. Please be aware that such exemption of taxpayers does not apply to excisable supplies and to VAT payable at importation of goods to the territory of Russia.

VAT is generally levied upon:

- supply of goods, works and services in the territory of the Russian Federation, including supply on a free-charge basis
- import of goods to the customs territory of the Russian Federation
- transfer of goods for own consumption
- performance of construction and assembly works for own purposes.

VAT is payable if such supplies are made in the Russian Federation by a taxpayer and not exempt or zero-rated. Supplies of goods, works, services, which are made in the Russian Federation and not exempt, are called taxable supplies.

The Russian Federation is regarded to be the place of performing work and providing services in case the purchaser of such work and services is registered (with tax authorities) in the territory of the Russian Federation. This rule applies to advisory, legal, accounting, advertising, marketing, engineering and data processing services. There are certain rules in respect to other types of services.

Generally, VAT amounts paid to suppliers of goods, work, services shall be offset if such goods, work and services were used for the operations subject to VAT; respective goods, services are reported in the taxpayer's accounts, proper documentation is available. VAT amounts may also be offset if goods, work and services sold are subject to VAT at the rate of 0% subject to special rules. If input VAT exceeds output VAT the difference may be reclaimed from the budget.

In some cases VAT amounts paid to the suppliers of goods, work, services are added to the profits tax deductible expenses (for example, if they are used for VAT exempt operations).

There are the following rates of VAT:

- a standard rate of 18% – all goods and services standard rated unless defined to be reduced rated or exempted
- a reduced rate of 10%
- a zero rate
- computation rates of 18/118 or 10/110 – certain transactions including the receipt of advance, transfer of property rights and to withholding VAT by the tax agents.

## Is there a registration limit for the tax?

Russian legislation does not provide for a separate VAT registration. A foreign legal entity that conducts business activities in Russia through a separate division (representative office, branch, construction sites and other places of business) is required to register with the Russian tax authorities within 30 days of the commencement of such activities.

Therefore, once a company with presence in Russia gets registered with the Russian tax authorities it is considered to be registered for all taxes including VAT.



### Does the same registration limit apply to non-established businesses?

This is not applicable in Russia, since the Russian legislation does not provide for a separate VAT registration.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

There is currently no specific legislation to tax non-resident supplies of digital services to private consumers resident in Russia. However, a draft law was passed by the Russian State Duma in December 2015 seeking to tax non-resident supplies of digital services. This legislation, if passed, is expected to come into effect 1 January 2017.

### Does a non-established business need to appoint a fiscal representative in order to register?

Not applicable.

### How often do returns have to be submitted?

A tax period with respect to VAT is recognised as a quarter for all the taxpayers.

A VAT return shall be completed in relation to standard-rated and reduced-rated supplies, including lists for zero-rated supplies.

A VAT return for each tax period must be completed and submitted to the local tax authorities by 25th of a month coming after the tax period (quarter). Please note that all VAT-payers must send tax returns in electronic format.

VAT is payable in the amount of 1/3 of VAT due for the quarter by the 25th of each month of the following quarter. For example, VAT for the 2nd quarter 2013 must be paid by 25 July, 25 August and 25 September in equal parts.

Taxpayers must complete the regular VAT return even if no supplies were made in the tax period.

### Are penalties imposed for the late submission of returns/payment of tax?

Failure by a taxpayer to submit a tax return to the tax authority entails a fine in the amount of 5% of tax which is payable (additionally payable) on the basis of that tax return for each full or partial month from the day which was established as the deadline for its submission, but not more than 30% and not less than RUB 1,000 (US\$ 30).

If a taxpayer has any underpayment of VAT, Russian tax authorities might impose late payment interest (currently late payment interest is calculated as 1/300 of the Russian Central Bank refinancing rate for each day of non-payment of outstanding taxes). Besides, non-payment of tax shall entail a fine in the amount of 20% of the unpaid tax. If understatement of VAT is committed deliberately, then a 40% fine is applied.

A tax agent may also be penalised for failure to withhold and remit VAT to the budget. A fine is equal to 20% of the amount to be withheld and remitted to the budget.

### Are any other declarations required?

Companies and individual entrepreneurs that import goods from the territory of Belarus and Kazakhstan should submit a special VAT return to the tax authorities.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Tax and administrative penalties may be also applied for violation of procedure of electronic tax return's submission, failure to maintain adequate records, procedure of documents' storage, non-provision of documents to the tax authorities, repeated mistakes, unjustified reimbursement of VAT from the budget.

Criminal proceedings may be brought in the case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Russia?

No, foreign companies not registered with Russian tax authorities or foreign legal entities registered with Russian tax authorities, but not performing VAT activity are not entitled to recover Russian VAT charged by suppliers.

## What information must a VAT invoice show?

Any supplies of goods and services, with exception of sale of securities, shall be reflected in VAT invoices. This applies to standard-rated, reduced-rated, zero-rated and exempted goods and services.

A supplier must issue two copies of a VAT invoice and send the original copy to the buyer within five days after the tax event occurred.

VAT invoice must also be issued by the supplier within five days after the advance is received.

Companies that apply Simplified Taxation System and Imputed Tax System do not issue VAT invoices since they are not taxpayers of VAT. Besides VAT invoices are not required in retail trading with individuals.

The following must be indicated in the VAT invoice:

- the sequential number and date of issue of the invoice
- the name, address and taxpayer's identification numbers (TIN) of the supplier and the purchaser and the Code of the Reason for Registration (CRR)
- the name and address of the consignor and of the consignee
- the number of the payment and settlement document where advance or other payments are received in respect of future supplies of goods (performance of work, rendering of services)
- a description of goods supplied (dispatched) (a description of work performed or services rendered) and unit of measurement
- the quantity (volume) of goods (work and services) supplied (dispatched) in accordance with the invoice on the basis of the accepted units of measurement
- currency name
- the price (tariff) per unit of measurement under the agreement (contract) excluding tax or, where State regulated prices (tariffs) which include tax are used, including the amount of tax
- the value of goods (work and services) for the entire quantity of goods supplied (dispatched) in accordance with the invoice (work performed, services rendered), excluding tax
- the amount of excise duty in the case of excisable goods
- the tax rate
- the amount of tax charged to the purchaser of goods (work and services)
- the value of the entire quantity of goods supplied (dispatched) in accordance with the invoice (work performed, services rendered), including the amount of tax
- the country of origin of goods
- the number of the customs declaration.

The VAT invoice shall be signed by the director and the chief accountant of the legal entity or by other officers so authorised in accordance with an internal order of the organisation. Where an invoice is issued by an individual entrepreneur, the invoice shall be signed by the individual entrepreneur indicating the particulars of the certificate of state registration of that private entrepreneur.

Please note that in case a VAT invoice has blank defects or does not indicate all required information, mentioned above, input VAT may not be reclaimed.

A VAT tax agent must issue VAT invoice indicating 'on behalf of a foreign legal entity' within five days after he withheld output VAT and transferred it to the budget.

Exempt supplies must be invoiced with indicating the words 'not VAT taxable supplies'.

VAT invoices may be issued on the hard copies or electronically.

## Does Russian VAT law have rules for withholding VAT?

Yes. If a foreign company makes taxable supplies of goods and services in the territory of Russia and a foreign company is not registered with Russian local tax authorities, the purchasers of such goods and services, registered taxpayers (legal entities and individual entrepreneurs) act as tax agents.

Under provisions of the tax law individual entrepreneurs or legal entities (Russian and foreign companies), registered with Russian tax authorities, who entered into contracts with foreign companies and purchased goods and services from them, is obliged to fulfil obligations of a tax agent regarding VAT.

A tax agent is obliged to compute, withhold the tax and transfer it to the federal budget of Russia.

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# Serbia

## Indirect tax snapshot

*What are the current rate(s) of VAT?*

- Standard rate of 20% for most goods and services.
- Reduced rate of 10% for example for basic foodstuffs, medicines and medical devices, natural gas or passenger transportation.
- Zero-rated goods and services include export of goods, transportation and other services related to export, import or transit, international air and river transportation services, goods and services used for supplying of aircrafts and ships used in international transport etc.

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax in Serbia. It is a tax on consumer expenditure, and is collected on business transactions and imports.

*Is there a registration limit for the tax?*

Yes. It relates to turnover of taxable transactions in Serbia for the previous 12 months, and once the limit has reached it is necessary to register.

*Does the same registration limit apply to non-established businesses?*

No. There is no registration limit for businesses that are not established in Serbia. Foreign taxpayers will need to register as soon as they start to make supply of goods and services in Serbia.

*Does a non-established person need to appoint a fiscal representative in order to register?*

According to the latest changes in the Serbian legislation, foreign entities which make supplies of goods and services in Serbia are obliged to appoint a tax representative. However, there are still no prescribed penalties for non-compliance with this rule.

*How often do returns have to be submitted?*

Most businesses are required to submit VAT returns on a monthly basis. The exceptions are businesses which total turnover in the last 12 months have not exceeded RSD 50,000,000 (approximately EUR 410,000) and they submit VAT returns quarterly.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.



*Are any other declarations required?*

Yes. Additional declarations have to be submitted in certain circumstances.

- Supply of goods and services intended for:
  - official needs of diplomatic and consular missions
  - official needs of international organisations, if so provided by the international agreements
  - personal needs of foreign staff of diplomatic and consular missions including their family members
  - personal needs of foreign staff of international organisations including their family members, if so provided by the international agreements.
  - supply of goods and services in accordance with donation agreements, under prescribed conditions
  - supply of goods and services in accordance with credit and/or loan agreements, under certain conditions
  - supply of goods and services in accordance with international agreements, under certain conditions.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

Transactions which are restricted from VAT recovery are the following:

- Purchase, production and import of cars, motorcycles, yachts, boats and aircrafts, facilities for storing these goods, fuels, spare parts and other expendables as well as renting, maintenance, repairing and other goods and services related to the use of these goods and facilities for their storing
- entertainment expenses
- expenses for meals and transport of employees and other engaged persons to and from work.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Serbia.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting (tax) period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Serbian VAT if the following conditions are met:

- it must be a supply of goods or services
- it must be made by the taxpayer (taxpayer is the person or entity which is registered for VAT in Serbia – that is person, including person which has not seat or place of residence in Serbia, that makes supply of goods and services independently in the scope of its business)
- the transaction should takes place in Serbia

- the transaction must be taxable supply
- the transaction must be performed within the framework of the business activity.

There are three rates of VAT that are applied to goods and services in Serbia: the standard rate of 20%, the reduced rate of 10% and the zero rate. In addition, some goods and services are exempted from the tax. Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into Serbia are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied at the place where goods are imported into Serbia. It is levied in order to bring the cost of goods produced outside the country up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.



## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course of its business must register for VAT, from the moment when total supplies for the previous 12 month exceeds a threshold of 8 million RSD (approximately EUR 60,000). When calculating the threshold, it must be considered total amount of all taxable supplies and those exempt (with the right to deduct input tax), except amount of supply of equipment and facilities for the business purpose, which have been made by the taxpayer during the previous 12 month period.

For these purposes, a 'person' includes any entity, which fulfils the conditions imposed by the definition of taxpayer.

A business can be also registered on a voluntary basis, even if the registration limit has not been reached.

A penalty may be imposed by the tax authority if a business do not register or fails to register at the correct time. Penalties in this case range from 100,000 RSD to 2,000,000 RSD.

## Does the same registration limit apply to non-established businesses?

The VAT registration limit does not apply to persons not established in Serbia. The persons not established in Serbia must register for VAT as soon as they begin their business activity in Serbia, regardless of registration threshold.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Yes, there are three provisions related to this case:

1. In the case non-resident entity makes supply of goods and services to non-taxable persons in Serbia, while considerations for this supply are collected by the taxable person on behalf and for the account of non-resident entity, tax debtor for this supply is taxable person which collects the consideration.
2. The tax base does not include amounts collected by the taxable person on behalf and for the account of another taxable person (for example non-resident supplying electronically/digital services), if it is transferring this amount to the person on behalf and for the account of which the taxable person has collected the payment.
3. There is no obligation for non-established business to appoint a fiscal representative in case this entity performs supply of electronically services in Serbia.

## Does a non-established business need to appoint a fiscal representative in order to register?

An entity which makes supply of goods and services in Serbia, but has not an established business in Serbia, is obliged to appoint a fiscal representative. Fiscal representative will act on behalf and for the account of this entity while complying with the VAT rules (registering for VAT, calculation and payment of VAT, submitting VAT return etc.).

There is no obligation for non-established business to appoint a fiscal representative only in case this entity performs supply the following services in Serbia:

- services which are deemed to be provided electronically
- services of passengers transportation by bus.

## How often do returns have to be submitted?

Tax period is a calendar month. For the taxpayers which total turnover for the previous 12 month period exceeded 50 million RSD (approximately EUR 410,000), for the tax debtors and for the entities which begin business activity in the current year.

Tax period is a quarter – for the taxpayers which total turnover for the previous 12-month period does not exceed 50 million RSD (approximately EUR 410,000) and for the tax debtors which are not registered for VAT.

Taxable persons shall submit VAT return and make the related payment by the 15th of the calendar month following the end of tax period. Exceptions are tax debtors which are not registered for VAT, for which deadline for submission and payment of VAT liability is 10th day of calendar month following the end of tax period.

## Are penalties imposed for the late submission of returns/payment of tax?

A wide range of penalties are imposed by the tax authority if VAT returns are not submitted on time and/or the related VAT liability is not calculated and/or is not paid by the due date.

Penalties range from 10% to 100% of due tax determined during the tax control procedure, but at least from 200,000 RSD to 500,000 RSD for legal entities.



## Are any other declarations required?

Additional declarations have to be submitted in the following circumstances:

- Supply of goods and services intended for:
  - official needs of diplomatic and consular missions,
  - official needs of international organisations, if so provided by the international agreements,
  - personal needs of foreign staff of diplomatic and consular missions including their family members,
  - personal needs of foreign staff of international organisations including their family members, if so provided by the international agreements.
- supply of goods and services in accordance with donation agreements, under prescribed conditions
- supply of goods and services in accordance with credit and/or loan agreements, under certain conditions
- supply of goods and services in accordance with international agreements, under certain conditions.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where business do not comply with the VAT rules.

Some of the penalty taxes are as follows:

- penalties for errors and omissions on tax return – 30% of the difference between calculated VAT and amount have to be determined in accordance with the VAT rules
- penalties for not submitting additional declarations and other prescribed documentation – from 100,000 RSD to 2,000,000 RSD
- penalties for not maintaining adequate records and accounting evidences – from 100,000 RSD to 2,000,000 RSD.

Criminal proceedings may be brought in the case of more serious matters. For example, it could be brought for submission of incorrect tax return in order to achieve the right for ungrounded tax refund or tax credit.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Serbia?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

The reimbursement of VAT will be performed to a foreign taxpayer upon his request, for the supply of moveable goods and services in the Republic of Serbia, under the following conditions:

1. VAT for the supply of goods and services must be stated on the invoice and the invoice must be paid
2. The amount of VAT to be reimbursed must exceed EUR 200 in dinar value at the official middle exchange rate of National Bank of Serbia
3. The conditions, under which a taxable person is entitled to a deduction of input tax for this goods and services, are fulfilled
4. Foreign taxpayer does not make supply of goods and services in Serbia, it provides only services of transportation of goods which are exempt from VAT in accordance with domestic rules or it provides only services of transportation of passengers which are according to domestic rules subject to individual taxation.

The reimbursement of VAT in these cases is provided under reciprocity.

## What information must a VAT invoice show?

A VAT invoice must show the following information:

- An invoice number which is unique and sequential
- the place and date of issuing the invoice
- the seller's name, address and tax identification number
- the customer's name, address and tax identification number
- the time of supply (also known as tax point) and the amount of advance payments (if any)
- a description sufficient to identify the goods or services supplied to the customer (type of goods/services and the quantity of goods/extent of services)
- the amount of tax base
- applicable tax rate
- the amount of VAT charged
- notification that there is no VAT payable on those goods and services (in case of exempt supply or zero supply)
- notification that billing system (charging and payment of VAT on a cash basis) is applied

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices.

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# Slovakia

## Indirect tax snapshot

|  |   |
|--|---|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>Standard rate of 20% for most goods and services.</li> <li>Reduced rate of 10% for pharmaceutical products, medical products, some books and similar products.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.   |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Slovakia. It is a tax on consumer expenditure, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the annual turnover of taxable transactions in the Slovakia, and once the limit has (or will be) reached it is necessary to register.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No. There is no registration limit for businesses that are not established in Slovakia and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU), eg internet sales.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | No, however in case of the import of goods to Slovakia from a non-EU country by foreign taxable party where a dispatch or transport of the imported goods ends in another EU member state, the foreign taxable person can opt a tax representative who will represent him in Slovakia.  |
| <i>How often do returns have to be submitted?</i>  | Generally, VAT returns must be submitted on a monthly basis. There is a possibility to submit VAT return on quarterly basis if certain circumstances are met.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late, a penalty can be imposed.  |
| <i>Are any other declarations required?</i>  | Yes. The taxpayer shall be obliged to submit a VAT ledger statement together with each VAT return including certain information regarding the documents included. The taxpayer is also obliged to submit a recapitulative statement (EC Sales List) for each calendar month in which he supplied goods or services from the territory of Slovakia to another EU member state to a person identified for tax purposes in another EU member state. Further there is obligation to submit inbound or outbound intrastate declaration in connection with goods moving/selling/purchasing to or from the EU on monthly basis after reaching a certain threshold. |



*Are penalties imposed in other circumstances?*

Yes, penalties can be imposed for late VAT registration.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

## What is the principal indirect tax?

Value added tax is an indirect tax on the consumption of goods and services and is normally borne by the ultimate consumer. This, in general, is accomplished by imposing VAT on all stages of manufacturing, wholesaling, retailing, etc., but allows the supplier to offset VAT paid on his or her business expenses against the tax payable.

In addition, VAT is paid on the import of goods into Slovakia. A VAT-registered taxable person may recover such VAT to the extent that it relates to an economic activity carried on by him or her. Furthermore, a charge to VAT arises on goods acquired by a taxable person from another EU member state. This is commonly referred to as a tax on acquisitions also known as intra-Community acquisition.

## Is there a registration limit for the tax?

Registration for VAT is obligatory for all domestic taxable persons whose turnover exceeds €49,790 for the previous consecutive 12 calendar months. This threshold will only apply to taxable persons with a registered seat or permanent address, place of business, or VAT fixed establishment in Slovakia.

The domestic taxable person can also apply for the voluntary VAT registration. In this case the domestic taxable person shall be obliged to prove their business activities carried out within the territory of Slovakia (for example by sending of business plan, issued invoices and etc.). Further the domestic taxable person can be obliged to lodge tax collateral in the form of a cash deposit made to the account of the tax office. There is an obligation for VAT registration if a taxable person who is not the taxpayer acquires goods from another EU-member state within the territory of Slovakia, whereby the total value of goods acquired from other EU-member states, excluding the tax, exceeds €14,000 for a calendar year. Further, if a taxable person who is not a taxpayer and has a seat, place of business, fixed establishment or domicile in the territory of Slovakia, supplies or receipts service from/to a foreign person from/to another EU-member state then such taxable person is obliged to register for VAT in Slovakia. The taxable person, registered for such 'special' VAT purposes, cannot be treated as a 'standard' VAT payer who has a right to claim input VAT levied on goods/services purchased within territory of Slovakia.

## Group VAT registration

As of 1 April 2009 there exists a possibility to ask for VAT registration of group in Slovakia that enables taxable persons who have their seat, place of business or VAT fixed establishment within Slovakia and who are connected financially, economically or organisationally, to register for Slovak VAT as a single VAT payer.

As a result, transactions within the group are outside the scope of VAT. The Slovak tax authorities will register a VAT group as of 1 January of the year following that in which the registration request is filed, provided this is done by 31 October of that year. If the request for registration is filed after 31 October, the Slovak tax authorities will register the group for VAT as of 1 January of the second year following that year in which the registration request is filed.

## Retroactive VAT registration

Retroactive VAT registration is possible only for taxable person that should have registered for VAT after 1 April 2009. In respect of deduction of input VAT taxable person which became VAT payer can under some conditions deduct input VAT but he should also pay output VAT from taxable supplies that occurred before official VAT registration with tax authorities.

## Does the same registration limit apply to non-established businesses?

### Registration of foreign taxable person

For foreign taxable person a single transaction which is subject to VAT in Slovakia, triggers the obligation to apply for VAT registration in Slovakia and to pay VAT under the Slovak VAT Act before commencing the business activities in Slovakia. The VAT registration therefore may be necessary for the taxable person without a registered seat or VAT fixed establishment in Slovakia as a result of transferring business assets to Slovakia, supplying goods or performing an acquisition of goods or an import of goods here.

**Call-off stock VAT simplification**

Slovak VAT Act allows a VAT simplification for foreign taxable entity, registered for VAT in another EU country (other than Slovakia) who transfers their own goods from another EU member state to a warehouse in Slovakia and these goods will be delivered to a single VAT payer. If foreign VAT payer meets law requirements stated in Slovak VAT Act, he does not have to register for VAT purposes in Slovakia. VAT liability arisen from the acquisition of goods will be paid by a Slovak customer (single VAT payer).

**Long-distance sales**

A foreign taxable person that makes long-distance sales in Slovakia to any persons, not registered for Slovak VAT, is obliged to register for VAT purposes at tax authorities Bratislava upon reaching a turnover of €35,000 in a calendar year. There is also a possibility of voluntary registration before reaching of law determined turnover. A foreign taxable person supplying goods into Slovakia via long-distance sales to a physical person and such goods is a subject of excise duty, must apply for VAT registration before commencing of such supplies.

**Retroactive VAT registration**

Retroactive VAT registration is possible only for taxable person that should have registered for VAT after 1 April 2009. In respect of deduction of input VAT taxable person which became VAT payer can under some conditions deduct input VAT but he should also pay output VAT from taxable supplies that occurred before official VAT registration with tax authorities.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT Mini One Stop Shop (MOSS) simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## Does a non-established business need to appoint a fiscal representative in order to register?

The import of goods to Slovakia from a non-EU country can be VAT exempt in case a dispatch or transport of the imported goods ends in the another EU member state. If an importer is a foreign taxable person who is not a Slovak VAT payer, he can opt a tax representative who will represent him in Slovakia. In such case the foreign taxable person does not have to register for VAT purposes in Slovakia and the tax representative applies the exemption from VAT on import of goods.

## How often do returns have to be submitted?

Monthly VAT returns must be filed if annual turnover exceeds €100,000. Where turnover for the previous 12 calendar months is less than €100,000, the VAT payer is obliged to file VAT returns for the calendar quarter.

A VAT payer with turnover below €100,000 may opt for submission of VAT returns on monthly basis. VAT returns must be submitted within 25 days after the end of a tax period and the due tax must be paid within the same time limit. A VAT payer can file VAT returns in paper format via post or electronically. Since 2014 each VAT payer should be obliged to file documents with the tax authorities only in electronic format by using of:

- a guaranteed electronic signature
- a written agreement on electronic delivery of documents concluded with the VAT payer and the tax authority.

If a taxpayer is registered in Slovakia as a foreign VAT payer or if the tax payer conducts his business activity in Slovakia through distance selling and has zero transaction during the tax period then there is no obligation to submit zero VAT return.

## Are penalties imposed for the late submission of returns/payment of tax?

A system of penalties exists to discourage failure to comply with the VAT system. Administrative penalties are generally either:

- penalties
- penalty interests.

Penalties and penalty interests are charged by the tax authorities via an official decision.

### Late VAT returns or payments of VAT arrears

Failure to submit VAT returns on time is subject to the penalty between €30 and €16,000. Late payment of any VAT arrears results in penalty interest charge to the amount of four times the discount rate of the European Central Bank (ECB) for each day of delay, beginning with the day following the due date until the date of payment.

### Incorrect VAT returns or supplementary VAT returns

Incorrect VAT returns or errors attract penalty charges to the amount of three times the discount rate of the ECB. This penalty is charged from the positive difference between the tax stated in the tax return and the tax identified by the relevant tax authorities. If the VAT payer identifies the difference themselves and file a supplementary VAT return, the penalty will be imposed in half.

Note: generally the penalties should be calculated as mentioned above, however if the three times ECB discount rate does not exceed 10%, the base for penalty will be 10%. Similarly if the four times ECB base rate does not exceed 15%, the base for penalty interest will be 15%. Tax administrator does not impose penalty which not exceeds amount of €10.

## Are any other declarations required?

### VAT ledger statement

The VAT payer is obliged to submit a VAT ledger statement together with each VAT return. The VAT ledger statement includes certain information regarding the documents (issued and received invoices, credit and debit notes, cash receipts,..) included in VAT return.

VAT ledger statement must principally contain following information:

- VAT identification number of customer/supplier
- serial number of invoice
- date of supply of goods or services
- tax base in EUR
- amount of tax in EUR
- rate of tax in %.

### EC sales lists

The VAT payer will be obliged to submit EC sales lists (ECLs) in case they make:

- intra-community supplies of goods from Slovakia to another EU member state
- intra-community movements of goods from Slovakia to another EU member state
- triangulation simplification as the first receiver of supplied goods
- supply of services with the place of supply in another EU member state.



The VAT payer is obliged to submit ECLs for a calendar quarter if the value of goods does not exceed €50,000 in the respective quarter and the four previous concurrent calendar quarters. In case this law limit is reached, the VAT payer must submit a monthly ECL. ECLs must be submitted no later than within 25 days after the end of the period to which they relate. ECLs must be filled only electronically.

### Intrastat

Where the VAT payer imports goods from other EU member states or delivers goods to other EU member states, they must submit the Intrastat declaration when they reach a certain threshold. The thresholds are separately monitored for import of goods and export of goods. Threshold for outbound transactions is €400,000; and for inbound transactions €200,000. Intrastat report has to be submitted on a monthly basis. The taxpayer is obliged to submit Intrastat declaration electronically.

### Keeping of records on purchased motor vehicles

A VAT payer who will buy a used motor vehicle, registered in EU, from a taxable person identified for VAT purposes in another EU-member state for purposes of his further sale of this motor vehicle, he will be obliged to keep records about these goods. Such records must be prepared for each tax period in which the goods (the used motor vehicle) was purchased and they must be delivered to the tax office in the deadline for submission of VAT return (see point 5). The records must contain following information:

- first name and last name of the seller, or the name of the seller and address of his seat, place of business, fixed establishment, domicile or habitual residence and VAT number assigned in the other member state
- value of the goods (vehicle)
- identification number of the vehicle (VIN)
- number of kilometers done
- date of first put in use of the vehicle
- date of invoice
- date of acquisition
- information whether the goods were sold with exemption of tax or if the special tax treatment for sale of used goods was applied due to VAT legislation valid in the EU member state from which the vehicle will be sold.

### Are penalties imposed in other circumstances?

If the taxable person does not meet the obligation to register for VAT in given time frame, the tax authorities may impose penalty; a minimum of €60 and a maximum of €20,000. Further tax authority may impose a penalty for failure of records on purchased motor vehicles on time. If the tax payer fails deliver records on purchased motor vehicles on time or with incorrect data than Slovak tax authority may impose penalty up to €10,000.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Slovakia?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances. Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

#### Businesses established in the EU

A foreign person who has a seat, place of business, fixed establishment or domicile in another EU-member state, and requests a tax refund through application shall be entitled to the refund of the tax on the goods and services supplied to him by the taxpayer within the territory of Slovakia. A foreign person (applicant) shall be entitled to tax refund if:

- the applicant is identified for tax purposes in the member state in which he has a seat, place of business, fixed establishment or domicile
- during the period in respect of which application for tax refund has been filed the applicant did not have a seat, place of business, fixed establishment or domicile within the territory of Slovakia
- during the period in respect of which application for tax refund has been filed the applicant did not supply goods or services within the territory of Slovakia, apart from certain limited exceptions.

The refund application must be submitted for a period of not more than one calendar year and the amount of the tax refund claimed shall not be less than €50. The refund application may be submitted for a period of less than one calendar year, but not shorter than three calendar months, provided that the amount of the tax refund claimed is not less than €400. The refund application is submitted via the electronic portal set up by the EU-member state in which he has a seat, place of business, fixed establishment or domicile and has to be made by 30 September of the year following that in which the VAT was incurred.

### Businesses established outside of the EU

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into the Slovakia or purchases of goods and services used in the Slovakia. A foreign person from non-EU country (third country) has a right to claim VAT refund if:

- they are not registered or liable to be registered for VAT in the Slovakia
- they are not established in any EU country
- they made no supplies of goods and services in the Slovakia other than certain specified exceptions
- where they are established in a third country having a comparable system of turnover taxes, unless the Slovak tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in the Slovakia.

A VAT application form has to be submitted to the Slovak tax authority no later than up to 30 June of the year following that in which the VAT was incurred. The tax refund claim must not be less than €50.

### What information must a VAT invoice show?

In accordance with of Slovak VAT act, the following are mandatory requirements to be shown on the invoice:

- the full name and address of the customer
- the full name of the taxable person (supplier)
- VAT number of customer
- VAT number of supplier
- number of invoice
- the date of supply of goods or services provided
- the date of issue of invoice
- the quantity of goods supplied
- the taxable amount per rate, unit price exclusive VAT, any discounts or rebates if they are not included in unit price
- the VAT rate applied or exemption from the tax (in case of the tax exemption, reference to the applicable provision of EU directive or to the corresponding Slovak VAT provision or reference in wording 'supply of goods or services is exempt')
- the total amount of VAT payable in euros
- where appropriate, reference in wording 'reverse charge' in case the customer is liable for the payment of the VAT.

The VAT payer may issue a simplified invoice in following cases:

- for sales with a value €100 and less including VAT
- for sales paid in cash via cash register with a value €1,000 and less including VAT
- for sales paid by credit cards or other electronic payment means via cash register with a value €1,600 and including VAT
- for sales of stamps for usage of motorways where a tax document (invoice) is a removable part of the stamp.

VAT invoices can be issued, received and stored either in electronic either in paper format. An electronic invoice is defined as an invoice which contains all mandatory invoicing requirements stated above and it is received or issued in electronic format. The selection of the electronic format is up to the decision of the parties of the taxable transaction. It could be a structured message, e.g. xml, or other format such as email with a pdf attachment. The taxable person is obliged to ensure the authenticity of origin of an invoice, the integrity of the content of an invoice and the legibility of an invoice whether on paper or in electronic form must be ensured from the issue until the end of the period for storage of the invoice. In the Slovak VAT Act is also stated the period during which every tax payer and taxable person is obliged to archive the invoices. The basic period for storage remains ten years following the year to which the invoices relates.

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# Spain

## Indirect tax snapshot

|  |  |
|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• Standard rate of 21% for most goods and services.</li> <li>• Reduced rate of 10% for a specific list which includes, for example, substances normally used for human and animal nutrition except alcoholic drinks, residential buildings or passenger transport.</li> <li>• Super-reduced rate of 4% for a specific list which includes, for example, ordinary bread, milk and derivatives, cheeses, eggs, fruits and cereals and books.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Spain. It is a tax on consumer expenditure, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>  | No, in general terms there is no threshold in Spain. Taxpayers that make taxable supplies in Spain have to register for VAT in Spain and submit periodic VAT returns.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | Yes. Foreign companies not established for VAT purposes in Spain, which make taxable supplies in Spain, may need to register in Spain (if the service is considered to be rendered in Spain or the good delivered in Spain).   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | In certain circumstances, a non-established person may need to appoint a fiscal representative before the tax authority.   |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit VAT returns on a quarterly basis. For large taxpayers (revenue exceeding €6,010,121.04 in the preceding calendar year) and for taxpayers that are included in the special registry for monthly VAT refunds, VAT returns have to be filed for a monthly period.  |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>  | <p>Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.</p> <p>Taxpayers that are included in the special registry for monthly VAT refunds, also have to submit a monthly declaration related to VAT books.</p>   |



*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed in relation to errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Spain and in other European Union (EU) countries. It is a tax on consumption which is applied on supplies of goods or services, intra-community acquisitions and imports.

VAT is ultimately borne by the consumer by being included in the price paid, although the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests, in general terms, with the business making the supply.

The supplier will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases. The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed.

A transaction is within the scope of Spanish VAT if the following conditions are met:

- it is a supply of goods or services
- it takes place within the Spanish territory
- it is made by a business or professional for valuable consideration, either regularly or occasionally
- it is made in the course or furtherance of any business carried on by that person or entity.

Any business that makes taxable transactions in Spain should be, generally, VAT registered in Spain.

There are three rates of VAT that are applied to goods and services in Spain; the standard rate, the reduced rate, and the super-reduced rate. In addition, some goods and services are exempted from the tax. Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost. The most important exemptions are (although they restrict deduction of input VAT):

- medical and social services
- financial and insurance transactions
- educational and sport services
- lease of some kind of real state.

Most goods imported into Spain from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. There is an import deferral regime applicable under certain requirements. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules). It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

Any business or professionals that make taxable supplies in Spain would have to register for VAT in Spain and submit periodic returns. In general, there is no threshold for VAT registration in Spain. If two or more entities form part of a group, all of them are established within Spain and are linked to each other by financial, economic and organisational orders, they could apply the special regime for group of entities. In this sense, it is deemed as group of entities the one formed by a parent company and its subsidiaries.

In this sense, it is considered a parent company the one meeting the following conditions:

- it has its own legal personality, also permanent establishments
- it has the control over the others through a direct or indirect participation of over 50% in the capital or voting rights of them and this participation remains during a calendar year
- it is not a subsidiary of any other entity established in Spain that could be also considered as a parent company in itself.

A corporate body cannot be treated as a member of more than one VAT group at a time. The main advantage of being part of a VAT group is the offsetting of individual self-assessments of the entities within the group. The parent company shall make the payment or receive the refund of the aggregate balances. However, each entity constituting the VAT group is jointly and severally liable for the VAT due by the VAT group. The option to apply the special regimen for group of entities is binding for three years (if the requirements continue to be met).

### Does the same registration limit apply to non-established businesses?

Regarding non-established businesses in Spain, a VAT registration limit does not exist. Foreign companies, not established for VAT purposes in Spain, that intend to make taxable supplies in Spain may need to register (this obligation may apply to businesses that supply goods or services deemed rendered in Spain). Registration for VAT in Spain may also be required where a non-established EU business is involved with distance selling.

Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not liable to be registered for VAT, as private individuals. The common examples of distance sales are goods supplied by mail order and via internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 per calendar year, or the equivalent in its own currency. Spain has adopted an annual threshold of €35,000. Distance sales from another EU country to non-taxable persons in Spain will be subject to VAT at the appropriate rate in the suppliers country. However, once the value of those distance sales to Spain exceeds the Spanish threshold:

- the supplier becomes liable to register for VAT in Spain
- Spain becomes the place of supply
- any further sales to customers in the Spain are subject to Spanish VAT.

Even if the threshold is not exceeded, the supplier can opt to waive the threshold rule. The option is binding for two calendar years.

### Does a non-established business need to appoint a fiscal representative in order to register?

In general terms, non-established businesses in Spain do need to appoint a fiscal representative and to inform the tax authority, before starting taxable transactions in Spain. This obligation will not apply to taxable persons established in other EU country or a country with which there is a taxation treaty in force.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Where these services are supplied to customers that are not businesses, the services will be taxed in the Member State in which the customer is established, has his permanent address or usually resides.

As a consequence, two optional special regimes are established (for suppliers outside and inside the EU). This will allow them to avoid being registered in each Member State in which the transactions are made.

### How often do returns have to be submitted?

VAT returns are normally prepared on quarterly basis. They are due for submission within 20 days after the quarter end. For large taxpayers (revenue exceeding €6,010,121.04 in the preceding calendar year) and for taxpayers that are included in the special registry for monthly VAT refunds, VAT returns must be filed for a monthly period. They are due for submission within 20 days after the period end.

Annual summary returns must be submitted by 30 January of the following calendar year.

### Are penalties imposed for the late submission of returns/payment of tax?

If a VAT return is not submitted on time or the related tax is not paid by the due date, the tax authority may impose penalties or surcharges to the taxpayer. Late submission or payments without a request from the tax authority are subject to a surcharge of 5%, 10% or 15% when the payment is made within three, six or 12 months of the deadline respectively. When the payment is made after 12 months of the deadline a surcharge of 20% plus delay interest is applicable. Late submission or payments after a request from the tax authority are subject to fines of between 50 and 150%, plus interest. However, if the penalty is not disputed by the taxpayer and the payment of the penalty is made within the deadline, a 25% reduction of the penalty applies.



### Are any other declarations required?

Businesses that make supplies or acquisitions of goods or services to traders registered for VAT in other EU countries are required to submit the recapitulative statement of intra-community operations. This statement will have to be submitted on monthly basis. However, if the volume of Intra-community supplies of goods does not exceed €50,000, the statement will have to be submitted on quarterly basis. This statement could be also submitted annually in certain circumstances.

In addition, if the value of the intra-EU trade in goods dispatched or arriving from other EU country is above an annual threshold (€400,000 for 2015), Intrastat declaration has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

Companies that are included in a special regime for monthly returns, have also to submit a monthly declaration related to VAT books. This declaration includes information about all the issued and received invoices during each period.

### Are penalties imposed in other circumstances?

Yes. Penalties could be imposed where businesses do not comply with the VAT rules. Penalties can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including in requests from the tax authority) or when a VAT refund is claimed improperly. Criminal proceedings may be brought in the case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Spain?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances. Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member states, and enables a business established in an EU country to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there involved in the supply of goods or services performed during the period covered by the claim
- during the refund period he must not have supplied any goods or services in the member State of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought. The refund period must cover a quarter or a calendar year – or a shorter period where it represents the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Spain or purchases of goods and services where Spanish VAT has been charged. The scheme is available to any person carrying on a business established outside the EU, provided that in the period of the claim:

- they were not registered or liable to be registered for VAT in Spain
- they were not established in any EU country
- they made no supplies of goods and services in Spain other than certain specified exceptions
- they are not the addresser of supplies of goods and services where reverse charge is applicable
- they comply with the requirements and limitations for deducting VAT
- they are established in a third country that provides reciprocal arrangements for refunds to be made to taxable persons established in Spain. Spain has arranged reciprocal agreements with Canada, Israel, Japan, Monaco, Norway and Switzerland; this agreements states specific operations in which VAT could be claimed back
- As of the 1st January 2015, reciprocal agreements are not required for claiming the VAT borne on the imports or acquisitions of the following goods or services:
  1. Molds and equipment to be used for fabricating goods to be exported to the non-established business or professional or destroyed
  2. Access to services, hotels, restaurants and transport linked to the attendance to fairs, conferences and exhibitions of commercial or professional nature.

The claim is also submitted electronically and must cover a quarter or a calendar year – or a shorter period where it represents the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- VAT rate applied
- the total amount of VAT charged expressed in euros.

For each different type of item listed on the invoice, it must be shown separately its corresponding taxable base. Where a VAT invoice includes exempt goods or services, it must specifically state the applicable articles of the Spanish legislation or the EU Directive, or a mention of that the operation is exempt. Where a VAT invoice includes certain operations as those where reverse charge rule applies, special regime for travel agencies or special regime for artworks, this must be mentioned on the invoices.

Where a business makes sales of goods or services not exceeding €400, a simplified VAT invoice can be issued. Simplified VAT invoices could be also issued in certain operations where the value does not exceed €3,000 euros. VAT invoices can be issued, received and stored in electronic format. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Sweden

## Indirect tax snapshot

|   |  |
|---|--|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 25% for most goods and services.</li> <li>• Reduced rate of 12% for food, hotel, restaurant and catering services.</li> <li>• Reduced rate of 6% for books and printed matter, concerts and performances at cinemas, theatres, operas, sporting activities, animal parks and passenger transport.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.  |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Sweden. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>   | No.  |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes. They will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU) e.g. mail order and internet sales.  |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | In certain circumstances businesses outside the EU must appoint a fiscal representative. The fiscal representative must be approved by the tax authorities.  |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit VAT returns covering three month accounting periods. However, returns must be submitted on a monthly basis if your turnover in Sweden exceeds SEK 40,000,000.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty fee will be imposed. Late payment will render an interest cost.  |
| <i>Are any other declarations required?</i>   | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.  |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.   |



## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in Sweden and in other European Union (EU) countries.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the country. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, i.e. the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund will be credited to your tax account and later on repaid to your business.

A transaction is within the scope of Swedish VAT if the following conditions are met:

- it is a supply of goods or services. Although the term “supply” is not defined in the legislation, it has a broad interpretation
- it takes place in Sweden
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Sweden, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are three rates of VAT that are applied to goods and services in Sweden; the standard rate, the reduced rate of 12 % and the reduced rate of 6 %. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a ‘real’ cost.

Most goods imported into Sweden from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and Customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in ‘free circulation’ and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is therefore very important to ensure that the correct rate of duty is applied and that it is only the importer that can report the import VAT as input VAT. VAT is charged on the value of the importation, including any custom duty.

Since January 2015, the import VAT should be reported in the VAT return to the Swedish tax agency. This was earlier reported to Swedish Customs.

## Is there a registration limit for the tax?

A ‘person’ who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT – there are no limits.

For these purposes, a ‘person’ includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

Two or more corporate bodies in the financial and/or insurance sector can be registered together as a VAT group if they belong to the same group of companies.

The main advantage of VAT group registration is that any supply of VAT liable goods or services (for example administration and IT) by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the VAT costs to zero within the group.



## Does the same registration limit apply to non-established businesses?

There is no VAT registration limit concerning businesses who are not established in Sweden. Those businesses will need to register for VAT as soon as they commence trading in Sweden.

Registration for VAT in Sweden may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the Internet.

Each EU country has the option of applying a distance selling threshold of 35,000 EUR or the equivalent in its own currency. In Sweden the threshold is SEK 320,000.

Distance sales from another EU country to non-taxable persons in Sweden will be subject to VAT at the appropriate rate in the suppliers country. However, once the value of those distance sales to Sweden exceeds the Swedish threshold of SEK 320,000:

- the supplier becomes liable to register for VAT in Sweden
- Sweden becomes the place of supply
- any further sales to customers in Sweden are subject to Swedish VAT.

Suppliers can choose to make Sweden the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

## Does a non-established business need to appoint a fiscal representative in order to register?

The tax authority in Sweden may direct a person to appoint a VAT representative to act on his behalf for VAT purposes where the person:

- is a taxable person or makes taxable supplies or acquires goods in Sweden from one or more other EU countries
- is not established, and does not have a 'fixed establishment' in Sweden
- is established in a country or territory which is not an EU country (or part of such a country) and where it appears to the Swedish tax authority that there is no provision for mutual assistance similar to that which provided between Sweden and other EU countries.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (ie where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (ie where the customer belongs). To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification.

## How often do returns have to be submitted?

The option to report VAT in the income tax return is abolished. Instead, reporting is to be done in a VAT return.

The accounting period is a calendar month if the taxable amount, excluding intra-EU acquisitions and imports, is estimated to exceed SEK 40 million for the tax year.

The accounting period is three months (a calendar quarter) if the taxable basis excluding intra-EU acquisitions and imports is estimated to a maximum of SEK 40 million for the tax year.

The accounting period is an entire tax year if the taxable basis, excluding intra-EU acquisitions and imports, is estimated to exceed SEK 1 million for the tax year.

If you so request, the Swedish tax agency shall decide that the accounting period should be one calendar month instead of a calendar quarter. If the accounting period should be an entire tax year, you may request to be allowed to report VAT once per calendar month or once per calendar quarter. Normally, such a decision will apply for at least 24 consecutive calendar months. If there are special reasons, the Swedish tax agency shall decide that you must report VAT every calendar month or calendar quarter without your having requested this.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty of SEK 625 will be imposed by the tax authority if VAT returns are not submitted on time. If the related tax is not paid by the due date the tax authority will charge you interest.

## Are any other declarations required?

Businesses that are registered for VAT in Sweden, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services. Goods are to be submitted monthly and services quarterly. There are exemptions. Late filing fee is SEK 1,250.

## Are penalties imposed in other circumstances?

Yes. A penalty of 20 % of the not reported/wrongly reported VAT will be applied. There are no penalties for late payment of the tax other than a quite high interest rate.

Criminal proceedings may be brought in the case of more serious matters. However, criminal proceedings cannot be combined with the above penalty (so called double punishment is not allowed).

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Sweden?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU member states, and enables a business established in an EU country to recover VAT incurred in another member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
- must have no fixed establishment from which: VAT liable transactions are performed (ECJ C 318/11 och C 319/11 Daimler and Widex A/S 2012-10-25), seat of economic activity, place of business or other residence
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the country making the refund. The claim is submitted electronically to the tax authority from whom the repayment is being sought.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into Sweden purchases of goods and services used in Sweden. The following conditions must be fulfilled for the VAT to be refunded:

- VAT must be on the purchase (acquisition) or import of goods or services for the business in countries other than Sweden
- the supply would have been subject to VAT, or would have entailed the right to a refund if it had taken place in Sweden
- the supply takes place in another EU country then it is subject to VAT or entitles the taxpayer to a refund in that country
- As a foreign entrepreneur, a VAT refund can be obtained for goods or services that are supplied in Sweden when a VAT-registered buyer is tax-liable for the turnover (known as ‘reversed charge’).

Taxpayers are not entitled to repayment if the Swedish VAT regulations prohibit deduction. In Sweden, there are limitations on the right to deductions for, among other things, cars and business entertainment. A travel agency business is not entitled to a refund for goods and services that directly benefit the traveller, such as hotel rooms, restaurants services and personal transport.

The claim period in Sweden is from 1 July to 30 June each year. Claim forms have to be submitted to the Swedish tax authority no later than six months from the end of the relevant designated year, ie by 31 December each year.

## What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in SEK.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

Where a business makes retail sales and makes a sale of goods or services within Sweden for SEK 2,000 or less including VAT, a simplified VAT invoice can be issued.

VAT invoices can be issued, received and stored in electronic format and there is no need to tell the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Switzerland

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of indirect tax?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 8% applicable to all supplies of goods and services not explicitly subject to the reduced rate or the special rate.</li> <li>• Reduced rate of 2.5% applicable, inter alia, to foodstuff and non-alcoholic beverages, water in conduits, news-papers, books, medicine, etc.</li> <li>• Special rate of 3.8% applicable to hotel and similar accommodation.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | The rates are generally valid until 31 December 2017.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Switzerland. It is a tax on consumer expenditure which is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>   | Yes. It relates to the annual turnover of taxable transactions in Switzerland, and once the limit has (or will be) reached it is necessary to register.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | Yes. There is generally the same registration limit for businesses that are not established in Switzerland.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | Yes, a non-established person will be required to appoint a fiscal representative in order to be able to register for VAT purposes in Switzerland.  |
| <i>How often do returns have to be submitted?</i>   | VAT returns are generally to be submitted on a quarterly basis. If certain conditions are met, returns can also be submitted on a monthly basis or semi-annual.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Generally, no penalties are imposed if a VAT return is submitted late. However, interest for late payment (currently 4% p.a.) will be levied on late payment on the VAT amount due.   |
| <i>Are any other declarations required?</i>   | The submission of an additional annual reconciliation VAT return is required in case deviations, between the VAT returns submitted and the annual financial statements, are detected.   |
| <i>Are penalties imposed in other circumstances?</i>  | Penalties may generally be imposed in the case of negligent tax evasion, unjustified exoneration or refund.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | Yes, in certain circumstances and subject to certain conditions.  |





## What is the principal indirect tax?

VAT is a turnover tax levied at each stage of the production and distribution. Liability for VAT rests with the person supplying the taxable goods or services or importing goods into Switzerland. However, the supplier is allowed to deduct from his VAT liability on sales made the amount of VAT paid and properly invoiced to him in relation to purchases effected by him, or VAT paid by him at importation. The actual burden of the tax is therefore borne by the final consumer.

Swiss VAT (MWST / Mehrwertsteuer) is levied on taxable supplies which take place in Switzerland, self-supplies, acquisition of certain services from foreign entrepreneurs and importation of goods. For VAT purposes, the Principality of Liechtenstein is part of the Swiss territory. VAT is collected by the Swiss Federal tax administration.

A transaction is within the scope of Swiss VAT if the following conditions are met:

- it is a supply of goods or services
- the place of supply is considered to take place in Switzerland
- it is made by, or under certain circumstances, received by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in Switzerland, or has a liability to become registered.

There are three rates of VAT that are applied to goods and services in Switzerland; the standard rate, the reduced rate and the special rate. In addition, some goods and services are exempted from VAT.

Exemptions without the right to deduct input tax include, inter alia, hospital and medical treatments, services supplied by social services, welfare institutions and social security institutions, child and youth education, schooling, job education etc., cultural services and sports events, insurance transactions, certain banking transactions, transfer and letting of real estate (with exceptions), operations connected with betting and other games of chance involving money, etc.

The supplier of exempt services or deliveries may opt for taxation. Please note that an option is not possible for financial and insurance services. In certain cases, option is only possible if the customer is a taxable person.

VAT borne by a taxable person on the purchase and importation of goods and services which are connected to taxable operations (also if zero rated) or to operations located abroad which would be taxable if located within Switzerland can be deducted/refunded. A proper VAT invoice and, in case of importation, original import documents are required. VAT on the acquisition of goods and services directly affected to exempt activities, on operations which are not commercially justified (for instance entertainment expenses) or on private activities is not deductible.

As a general rule, VAT is payable to the customs at the time of importation. However, taxpayers who have given security for the tax amount may pay import VAT within 60 days based on the invoice issued by the Federal Customs Administration.

## Is there a registration limit for the tax?

Any person running a business is basically liable to VAT irrespective of the realisation of a turnover. Thus tax liability is not depending on the realisation of a taxable turnover. Swiss VAT law allows for an exemption from tax liability if the taxable turnover is below CHF 100,000. Each enterprise will be able to explicitly abstain from the afore mentioned exemption and therefore become tax liable. The limit is CHF 150,000 for sport or culture clubs (if they do not strive to make profit and are managed in an honorary capacity) and for institutions of public interest.

Companies, partnerships and individuals having their domicile or permanent establishment in Switzerland (not in the Principality of Liechtenstein) and who are closely related to each other, may request to be treated as a fiscal unity for VAT purposes, with one single VAT number. As a consequence, intra-group supplies are not taxable.

Any person whose domicile, registered office or permanent establishment is located in Switzerland, has to pay VAT on certain services (or under certain circumstances also delivery of goods) provided by foreign entrepreneurs who are not registered for VAT purposes in Switzerland, if the value of such services exceeds CHF 10,000 during the calendar year. Please note that for already registered persons, no threshold is applicable, i.e. these persons will have to pay VAT on any import of services/goods acquired from a not registered foreign person.

## Does the same registration limit apply to non-established businesses?

Non-resident entities supplying goods or services within Switzerland are generally subject to the same registration rules. However, foreign entities supplying on Swiss territory only services which are subject to service import tax (i.e. services taxable at the place of the domestic recipient, excluding telecommunication services or electrical services provided to non-taxable recipients) are not obliged to register for Swiss VAT purposes and the reverse charge treatment will be applicable.

In case of registration, the foreign firm must designate a fiscal representative in Switzerland and provide guarantees (usually a bank guarantee) to the Federal Tax Administration in respect of likely tax debts.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

Based on Swiss tax law a non-established business, which provides services in Switzerland exclusively subject to the service import tax (reverse-charge-mechanism), is generally not liable to register for Swiss VAT. However, a non-established business, which provides telecommunication services and electronic services to non-taxable Swiss resident persons, must register for Swiss VAT once the limit of CHF 100,000 of taxable transactions has (or will be) reached. Whether the recipient of the telecommunication services and electronic services is a taxable or a non-taxable person has to be cleared by the supplier. If the non-established business, which is not registered for VAT in Switzerland, provides telecommunication services and electronic services to taxable Swiss resident persons, the recipients of the services should apply the reverse-charge-mechanism. Once the non-established business is registered for VAT in Switzerland it must charge Swiss VAT on its telecommunication services and electronic services to Swiss resident persons irrespective whether they are taxable or non-taxable persons.

## Does a non-established business need to appoint a fiscal representative in order to register?

Yes, a non-established person will be required to appoint a fiscal representative in order to be able to register for VAT purposes in Switzerland.

## How often do returns have to be submitted?

The VAT returns generally have to be filed on a quarterly basis. The VAT return must be filed and the corresponding payment made within 60 days after the accounting period. However, for small businesses, the tax period is semi-annual. In certain cases, the tax period is monthly. Late payments are subject to interest, at the rate of currently 4% p.a.

## Are penalties imposed for the late submission of returns/payment of tax?

In case of intentional or negligent tax evasion, unjustified exoneration or refund, the taxpayer is punished by a fine up to five times the amount of the unlawful advantage. Persons jeopardizing the levy of the tax (for instance by not fulfilling the duty to register) are punished by a fine up to CHF 800,000 (doubled in severe circumstances) or can be prosecuted according to the Swiss Penal Code or the Federal Act on Administrative Penal Law.

## Are any other declarations required?

At the end of the business year, a turnover and input VAT reconciliation must be made. In case deviations between the VAT returns filed and the annual financial statements are detected, the entity is obliged to submit an additional annual reconciliation VAT return until 31 August of the following year.

## Are penalties imposed in other circumstances?

Penalties may generally be imposed in the case of negligent tax evasion, unjustified exoneration or refund.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Switzerland?

Foreign taxable persons who are not established in Switzerland and who do not supply taxable goods or services on the Swiss territory may, under certain conditions, claim refund of Swiss VAT incurred on their business costs. The claim can be made once a year and must be filed by a Swiss fiscal representative within a period of six months following the end of the calendar year in which the goods and services were bought. There is no refund if the annual amount does not reach CHF 500.

### What information must a VAT invoice show?

The seller of the service/goods must produce an invoice to the recipient on request. This invoice must clearly identify provider and recipient as well as the kind of the service provided or good(s) supplied.

Invoices or other accounting documents for taxable recipients as well as for recipients with residence abroad (which are entitled to VAT recovery) should generally include the following:

- the seller's name and address
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the seller's VAT registration number (eg CHE-xxx.xxx.xxx MWST)
- the time or period of supply if this is different from the invoice date
- the invoice amount (must not be in CHF)
- the applicable VAT rate.

Electronic invoices must comply with the requirements regarding proof of origin and integrity. Therefore, e-invoices must include a digital signature by a certified provider.

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# Turkey

## Indirect tax snapshot

*What are the current rate(s) of indirect tax?*

- Standard rate of 18% for most goods and services.
- Reduced rate of 8% for some goods and services including basic food stuffs, books and similar publications.
- Minimum rate is 1% goods and services include agricultural products such as raw cotton, dried hazelnuts.

*Are there any confirmed or anticipated changes to these rates?*

No.

*What is the principal indirect tax?*

Value Added Tax (VAT) is the principal indirect tax. It is a tax on consumer expenditure, and is collected on business transactions and imports.

*Is there a registration limit for the tax?*

No. According to the VAT Law, without any exceptions, all taxpayers that make a transaction subject to VAT are responsible.

*Does the same registration limit apply to non-established businesses?*

No. There is no registration limit for businesses that are not established in Turkey and they will need to register as soon as they start to make taxable transactions.

*Does a non-established person need to appoint a fiscal representative in order to register?*

Yes. To register as a taxpayer, a non-established person needs to appoint a fiscal representative.

*How often do returns have to be submitted?*

Most businesses are required to submit VAT returns covering one month accounting periods.

*Are penalties imposed for the late submission of returns/payment of tax?*

Yes. If a VAT return, or the corresponding payment, is submitted late a penalty will be imposed.

*Are any other declarations required?*

Yes. Additional declarations have to be submitted in respect of certain supplies made to customers that need to be reverse charged or are subject to withholding VAT.

*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

In some cases you cannot deduct the VAT. For example, VAT in purchases of cars, missing and stolen stocks.



## What is the principal indirect tax?

In Turkey, there are several indirect taxes but the most important indirect tax is VAT.

The beginning of the studies on VAT in Turkey goes back to 1970. In 1974, a draft VAT law, which was the result of studies of a technical group, was prepared. The subject (VAT) was discussed by different levels of public opinion and some project games were organised to test the drafts with the volunteer enterprises. After the appreciation of the results of these discussion and games, seven law drafts were prepared from 1974-1984. The 8th draft was enacted on 2 November 1984 and entered into force on 1 January 1985. By the VAT Law, eight indirect taxes on consumption were abolished.

The Turkish tax system levies VAT on the supply and the importation of goods and services. The Turkish name for VAT is *Katma Değer Vergisi*, abbreviated to KDV.

Liability for VAT arises when:

- a) a person or entity performs commercial, industrial, agricultural or independent professional activities within Turkey
- b) goods or services are imported into Turkey.

VAT is levied at each stage of the production and the distribution process. Although, liability for the tax levies on the person who supplies or imports goods or services, the real VAT burden is on the final consumer. This result is achieved by a tax- credit method where the computation of the VAT liability is based on the difference between the VAT liability of a person on his sales (output VAT) and the amount of VAT he has already paid on his purchases (input VAT).

The Turkish VAT system employs multiple rates and the Council of Ministers is authorised to change the VAT rates within certain limits.

## Is there a registration limit for the tax?

VAT taxpayers are defined in the VAT Law as those engaged in taxable transactions, irrespective of their legal status or nature and their position with regard to other taxes.

The following people or entities are liable for VAT:

- those supplying goods and services
- those importing goods or services
- those required to complete customs formalities in case of transit of goods through Turkey
- general directorates of postal services (PT and Telecom) and radio and television corporations
- organisers of any kind of chance and gambling
- organisers of shows, concerts and sporting events with the participation of professional artists and professional sportsmen
- lessors of goods and rights stated in Article 70 of the Income Tax Law
- applicants for optional tax liability.

Goods and rights are set out in Article 70 of the PIT Law including; immovable property such as land, buildings, mines and rights which are in the nature of immovable property; and other goods and rights such as all kinds of motor vehicles, machines and equipment, ships, literary, artistic and commercial copyrights, commercial or industrial know-how, patents, trademarks, licenses and similar intangible properties and rights.

## Does the same registration limit apply to non-established businesses?

In the event that the taxpayer is not resident or does not have a place of business in Turkey, a legal head office or place of management in Turkey, or in other cases deemed necessary, the Ministry of Finance is authorised to hold any one of the people involved in a taxable transaction responsible for the payment of tax.

According to the Turkish VAT law, there is a so-called reverse charge VAT mechanism, which requires the calculation of VAT by resident companies over payments to abroad. Under this mechanism, VAT is calculated and paid to the related tax office by the Turkish company or customers on behalf of the non-resident company (foreign company). On the other hand, the local company treats this VAT as input VAT and offsets it in the same month.



Toll-manufacturing and ready-made materials (textiles) are subject to partial withholding: Only 5/10 of the calculated VAT is paid to the seller by the purchaser. Therefore, the purchaser will be responsible for paying 5/10 of calculated VAT to the tax office directly.

Junk metal, waste paper, junk plastic material deliveries are exempted from VAT: In the case of the renouncement of the above mentioned exemption, the purchaser pays 5/10 of the calculated VAT to the seller. Therefore, the purchaser will be responsible for paying 5/10 of the calculated VAT to the tax office directly.

### Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No specific legislation. However, the electronically supplied/digital services may be due a reverse charge VAT and possibly withholding tax (WHT). If the company buys digital services to resell them without alterations or they buy digital services for its own use, WHT will not be due. If the company buys the digital services with the intention of alteration, duplication and reselling, then it will be due WHT.

### Does a non-established business need to appoint a fiscal representative in order to register?

Yes, to register you need to establish a company based in Turkey, to do this you also need to appoint a fiscal representative.

#### Types of companies

Incorporated companies such as a:

- Joint-stock company (A.Ş.)
- Limited liability company (Ltd. Şti.)
- Commandite company
- Collective company
- Cooperative company

#### Joint stock company

The company's stock capital is divided into shares and the liability of the shareholders is limited to the subscribed capital and paid by the shareholder. At least one shareholder (real person or legal entity) and a minimum capital of TRY 50,000 are mandatory. The mandatory company shall include a general assembly and a board of directors.

#### Limited liability company

It is a company established with at least one shareholder (real person or legal entity) and the liability of the shareholders is limited to the subscribed capital and paid by the shareholder. A minimum capital of TRY 10,000 is mandatory.

#### Commandite company

It is the company established to operate a commercial enterprise under a trade name. Whereas the liability of some shareholders is limited to the capital subscribed and paid by the shareholder (commanditer), for some shareholders there is no limitation of liability. Legal entities can only be commanditer. No minimum capital is required. The rights and obligations of the shareholders are determined by the articles of association.

#### Collective company

It is the company established to operate a commercial enterprise under a trade name and, the liability of none of the shareholders is limited only to the capital subscribed and paid by the shareholder. No minimum capital is required. It is mandatory that all the shareholders be real persons. The rights and obligations of the shareholders are determined by the articles of association.

### How often do returns have to be submitted?

The declaration consists of VAT arising from sales and purchases in a month. The deadline for this declaration is the 24th of the following month. The deadline for the payment is, on 26th the following month (two days later than the deadline of the declaration).

All VAT returns have to be submitted within 24 days of the end of the relevant accounting period, together with any tax due.

### Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty will be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

For a late submission of the declaration, it will be considered a first degree irregularity. If the declaration is submitted late and a VAT payment is due, it will be considered as a first degree irregularity as well as a tax loss. If the declaration is submitted on time, but the VAT paid late, the VAT will be due a late payment penalty.

### Are any other declarations required?

Businesses that are required to file VAT declarations must also fill in forms of BA-BS (declarations for buying and selling totals over TRY 5000). This is for the tax office to conduct a cross-examination between sellers and buyers to check if each side is correctly declaring its transactions.

### Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

### Can the VAT incurred by overseas businesses be claimed if they are not registered in Turkey?

No. In Turkey exports are not due VAT. The goods are taxed at point of destination. The only way in which a company which is not registered in Turkey to incur VAT would be if this company buys goods from a Turkish registered company and sells those goods directly to another company in Turkey. This way, the destination of the goods will be in Turkey. Thus as a result, the company that sells the goods to non-registered overseas business must issue the invoice with VAT. However, the overseas business cannot claim this VAT back. In case, this company is registered in Turkey, it faces VAT when buying goods in Turkey, but if it exports these goods it must issue the invoice without VAT. But this way, it has the possibility to claim the VAT it endured when acquiring the goods in Turkey.

### What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's TAX registration number
- the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in TRY.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately
- state clearly the corresponding Law article that the good is VAT exempt for.

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# Ukraine

## Indirect tax snapshot

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|--|--|
| <i>What are the current rate(s) of indirect tax?</i>   | <ul style="list-style-type: none"> <li>• The standard rate is 20%.</li> <li>• 7% rate applies to supply on the customs territory of Ukraine and to importation into the customs territory of Ukraine of drugs listed in State register, medical devices listed in the register of the Cabinet Ministers of Ukraine.</li> <li>• 0% rate applies to exportation of goods under the customs regime of export, re-export, free trade, free customs zones etc.</li> </ul> |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in Ukraine. It is a tax on consumer expenditures, and is collected on business transactions and imports. VAT is charged on the final consumption of certain goods and services in the home market but is collected at every stage of production and distribution.  |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the annual turnover of taxable transactions in Ukraine in the amount of UAH 1,000,000 (excluding VAT), and once the limit has (or will be) reached it is necessary to register.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | In accordance with Ukrainian legislation a non-resident can be registered as a taxpayer in Ukraine only if such non-resident registers a permanent establishment. The registration annual limit of UAH 1,000,000 taxable transactions applies to permanent establishments.   |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | A non-established business does not need to appoint a fiscal representative in order to register.  |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit VAT returns on a monthly basis. Some businesses can submit VAT returns covering three month accounting periods.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. Penalties apply in the case of the late VAT return submission. If the taxpayer has already been fined in this tax period, the amount of fines increases.  |
| <i>Are any other declarations required?</i>  | In addition to VAT declarations businesses must provide customs declarations for imported goods.   |



|   |   |
|---|---|
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for the tax understatement and for the budget compensation overstatement.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No. VAT incurred by overseas businesses cannot be claimed if they are not registered in Ukraine.  |
| <i>Deduction of VAT</i>   | In some cases VAT amounts paid to the suppliers of goods, work or services become income tax deductible expenses (for example, if they are used for VAT exempted transactions). |

## What is the principal indirect tax?

Value Added Tax (VAT) is the principal indirect tax in Ukraine. VAT is a state tax and is payable to the state budget of Ukraine.

It is a tax on consumer expenditures, and is collected on business transactions and imports. VAT is charged on the final consumption of certain goods and services in the home market but is levied at every stage of production and distribution. The person who supplies or imports the taxable goods or services into Ukraine is responsible for submitting VAT returns. Although VAT is eventually paid by the consumer by being included into the price, the liability for charging, collecting and paying it to the tax authorities at each stage of the process is on the business making the supply, ie the sale. Therefore, the actual burden of the tax is on the final consumer.

Taxpayers are Ukrainian companies, foreign companies and entrepreneurs. The taxable item is the taxpayer's transactions for:

- supply of goods (services), located within the customs territory of Ukraine
- import (export) of goods into (outside) the customs territory of Ukraine
- supply of services for international passenger, luggage and cargo carriage.

Ukraine is regarded to be the place of supply of services in cases where the purchaser of such works and services is VAT registered on the territory of Ukraine. This rule applies to:

- provision of intellectual property rights
- advertising, advisory, engineering, legal (incl. advocate services), accounting, auditing, actuarial services, data processing services and providing information or other information sphere services
- staff provision
- leasing
- telecommunication services
- radio and television broadcasting
- certain types of intermediary services
- freight forwarding services.

The Ukrainian tax code determines goods, works and services that are 20%, 7%, 0%-rated, not subjected to taxation or exempted from VAT.

The tax reporting period of VAT is one calendar month; in some cases, it is a calendar quarter.

Basically, VAT that was paid to suppliers of goods, work or services will be offset if such goods, work and services were used in the operating activity of the company who pays VAT. In some cases VAT amounts paid to the suppliers of goods, work or services become income tax deductible expenses (for example, if they are used for VAT exempted transactions).

A business registered as a taxpayer will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any import VAT paid). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. If the input tax exceeds the output tax, a refund can be claimed. Most goods that are imported into Ukraine from other countries are VAT taxable. The tax should be paid by the importer at the time of the border crossing.

There is a strong correlation between VAT and Customs duty. Customs duty is levied at the place where goods are imported into the country. After duty and VAT are paid by the importer, the goods can be released for use in the home market. VAT is charged on the customs value of the imported goods.

## Is there a registration limit for the tax?

If the total annual amount of taxable transactions of a person exceeds UAH 1,000,000 (excluding VAT) then they must register as a taxpayer by the tax authorities at its location.

A person can be voluntarily registered as a taxpayer even if the registration limit has not been exceeded.

If a person that is not registered as a taxpayer, imports taxable goods into the territory of Ukraine, they shall pay the tax at the time of customs clearance of goods without registering as a taxpayer.

Group registration does not apply in Ukraine.

A penalty may be imposed by tax authorities, if a business fails to register within the prescribed time frame.

## Does the same registration limit apply to non-established businesses?

In accordance with Ukrainian legislation a non-resident can be registered as a taxpayer in Ukraine only if such non-resident registers the permanent establishment. The registration annual limit of UAH 1,000,000 taxable transactions applies to permanent establishments.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

No. There is no specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in Ukraine.

## Does a non-established business need to appoint a fiscal representative in order to register?

In accordance with Ukrainian legislation a non-resident can be registered as a taxpayer in Ukraine only if such non-resident registers the permanent establishment. A non-established business does not need to appoint a fiscal representative in order to register. Naturally, any non-resident can set up a subsidiary in Ukraine.

## How often do returns have to be submitted?

If you are obliged to charge VAT, you must also report and pay VAT to the state, regardless of the amount of sales. The obligation to report also applies to those who are registered for VAT and have the right to make deductions (right to repayment) despite not needing to charge VAT.

In Ukraine the tax reporting period for VAT is one calendar month and in some cases specified by the tax code – a calendar quarter, taking the following into account:

- if a person is registered as a taxpayer on the day other than the first day of the calendar month, the first reporting period is the period that begins on such registration date and ends on the last day of the first full calendar month
- if the tax registration of a person is cancelled on the day other than the last day of the calendar month, the last reporting period is the period that begins on the first day of the month and ends on the day of such cancellation.

A tax return for the base tax reporting period (a calendar month) shall be filed within 20 calendar days following the last calendar day of the tax reporting month.

The taxpayer shall pay the amount of the VAT liabilities specified in the VAT return within ten calendar days following the relevant deadline.

## Are penalties imposed for the late submission of returns/payment of tax?

Taxpayers are required to pay a penalty of 170 UAH for VAT returns failed or late submissions on the case by case basis. Repeated violations committed by the taxpayer during the year shall incur a penalty of UAH 1,020 for each failure to submit or the late submission. If the taxpayer does not pay its tax liabilities on time, the penalties are as follows:

- a delay up to 30 calendar days inclusive following the last day of deadline for payment of such liabilities – at the rate of 10% of repaid amount of the tax debt
- a delay of more than 30 calendar days following the last day of deadline for payment of such liabilities – at the rate of 20% of repaid amount of the tax debt.

## Are any other declarations required?

In addition to VAT declarations businesses must provide customs declarations for imported goods.

## Are penalties imposed in other circumstances?

Yes. Penalties can be imposed for the understatement of tax and for the budget compensations overstatement.

Penalties and interests can be applied in case of errors and omissions made in tax returns, or when the tax is paid late.

Penalties can also be applied when the businesses:

- fail to maintain adequate records
- fail to provide information (including additional declarations) to the tax authorities
- make repeated mistakes.

Criminal proceedings may be brought in the case of intentional evasion of taxes, duties and other payments in the system of taxation imposed in accordance with the law.



## Can the VAT incurred by overseas businesses be claimed if they are not registered in the Ukraine?

No. VAT incurred by overseas businesses cannot be claimed if they are not registered in Ukraine.

## What information must a VAT invoice show?

Required details to be shown on the VAT invoice are:

- invoice number which is unique and sequential
- invoice date
- seller's and customer's full or short names
- seller's and customer's tax registration numbers
- a description sufficient to identify the goods or services supplied to the customer
- supply price exclusive of VAT
- rate of VAT and amount of VAT in numeric value
- total amount, including VAT
- commodity code according to Ukrainian classification of goods for foreign economic activities.

For each different type of item listed on the invoice, the following must be shown:

- date of the tax liability
- description sufficient to identify the goods or services supplied to the customer
- commodity code according to Ukrainian classification of goods for foreign economic activities
- goods/services measurement units
- quantity of goods or scope (volume) of services
- unit price, excluding VAT
- total amount payable, excluding VAT sectional to 20%, 7%, 0%-rated or exempted transactions
- total amount payable, including VAT.

All VAT invoices and adjustments to VAT invoices should be digitally compiled and registered in the Unified Register.

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# United Kingdom

## Indirect tax snapshot

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|--|--|
| <i>What are the current rate(s) of VAT?</i>  | <ul style="list-style-type: none"> <li>• Standard rate of 20% for most goods and services.</li> <li>• Reduced rate of 5% for some goods and services including children's car seats and domestic energy supplies.</li> <li>• Zero-rated goods and services include most food, children's clothes and printed matter.</li> </ul>            |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                              | No.  |
| <i>What is the principal indirect tax?</i>   | Value Added Tax (VAT) is the principal indirect tax in the UK. It is a tax on consumer expenditure, and is collected on business transactions and imports.   |
| <i>Is there a registration limit for the tax?</i>  | Yes. It relates to the annual turnover of taxable transactions in the UK, and once the limit has (or will be) reached it is necessary to register. The current registration threshold is GBP 82,000 for UK businesses, and those with UK establishments.   |
| <i>Does the same registration limit apply to non-established businesses?</i>                       | No. There is no registration limit for businesses that are not established in the UK and they will need to register as soon as they start to make taxable transactions. Different registration requirements also apply to businesses involved with 'distance sales' made within the European Union (EU), eg mail order and internet sales. |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i> | In certain circumstances, a non-established person may be directed by the UK tax authority to appoint a fiscal representative.   |
| <i>How often do returns have to be submitted?</i>  | Most businesses are required to submit VAT returns covering three month accounting periods. Returns can also be submitted on a monthly or annual basis, subject to tax authority approval.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                    | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.  |
| <i>Are any other declarations required?</i>  | Yes. Additional declarations have to be submitted in respect of certain supplies made to customers who are registered for VAT elsewhere in the EU. Declarations also have to be submitted in certain circumstances in connection with goods moving to or from the EU.  |



*Are penalties imposed in other circumstances?*

Yes. Penalties can be imposed for a range of errors or omissions.

*Can the tax incurred by overseas businesses be claimed if they are not registered in your country?*

Yes, in certain circumstances and subject to certain conditions.

*Deduction of VAT*

Input VAT cannot be recovered in certain circumstances, for example:

- goods and services that have been purchased for private reasons
- business entertainment
- costs incurred in relation to VAT-exempt or non-business supplies
- specified items, for example a 50% restriction on car hire.

## What is the principal indirect tax?

Value Added Tax (VAT) is the main type of indirect taxation in the UK and in other European Union (EU) countries. It is governed by the Principle VAT Directive of the EU and is also enacted in National Law.

It is a tax on consumption which is applied during the production and distribution process to most goods and services. It is also applied to goods, and certain services, entering the jurisdiction. Although VAT is ultimately borne by the consumer by being included in the price paid, the responsibility for charging, collecting and paying it to the tax authority at each stage of the process rests with the business making the supply, ie the sale.

A business registered for the tax will charge VAT (output tax) on its sales, and incur VAT (input tax) on its purchases (including any VAT paid at importation). The difference between the output tax and the deductible input tax in each accounting period will be the amount of VAT payable by the business to the tax authority. Where the input tax exceeds the output tax, a refund can be claimed, subject to certain conditions.

A transaction is within the scope of UK VAT if the following conditions are met:

- it is a supply of goods or services. Although the term 'supply' is not defined in the legislation, it has a broad interpretation
- it takes place in the UK
- it is made by a taxable person. For these purposes, a taxable person is a person or entity who is registered for VAT in the UK, or has a liability to become registered
- it is made in the course or furtherance of any business carried on by that person or entity.

There are three rates of VAT that are applied to goods and services in the UK; the standard rate, the reduced rate, and the zero rate. In addition, some goods and services are exempted from the tax.

Businesses that make exempt supplies are unable to claim all of the input tax that they incur, so the VAT paid to suppliers will be a 'real' cost.

Most goods imported into the UK from outside the EU are subject to VAT. The tax will have to be paid by the importer at the time of importation. Where the importation is for business purposes and the importer is registered for VAT, it may be possible to reclaim the tax (subject to certain rules).

It is also important to note the interaction between VAT and customs duty. Customs duty is levied across the EU at the place where goods are imported into the community. It is levied in order to bring the cost of goods produced outside the EU up to the same level as those produced within it. Once duty (and VAT) has been paid by the importer, the goods are in 'free circulation' and they can then be released for use in the home market. Unlike other indirect taxes, such as VAT, once duty has been paid it is not usually recoverable by the importer. It therefore represents a bottom line cost to the importing business if it cannot be passed on in higher prices. It is consequently very important to ensure that the correct rate of duty is applied. VAT is charged on the value of the importation, including any custom duty.

## Is there a registration limit for the tax?

A 'person' who either makes or intends to make taxable supplies of goods or services in the course or furtherance of a business must register for VAT if the value of its taxable supplies in the UK exceeds the annual registration limit, or is expected to exceed the limit in the near future. A business can register on a voluntary basis even if the registration limit has not been exceeded.

Please note that the UK registration threshold is currently GBP 82,000 per annum.

For these purposes, a 'person' includes any legal entity. Therefore, once a person is registered for VAT, all of his business activities will be covered by the registration – even if the nature of some of those activities are very different.

Two or more corporate bodies can be registered together as a VAT group if:

- each of the bodies is established, or has a fixed establishment, in the UK
- they satisfy the 'control' test, ie one of them controls each of the others, or one person or a business partnership controls all of them
- they satisfy anti-avoidance rules that apply in certain circumstances.

A corporate body cannot be treated as a member of more than one VAT group at a time.

The main advantage of VAT group registration is that, apart from a few limited exceptions, any supply of goods or services by a member of the group to another member of the group is disregarded for VAT purposes. This reduces the risk of VAT being accidentally omitted on supplies between separately registered connected companies.

However, there are some disadvantages and any decision on whether to group register should be taken with care. For example, all VAT group members (including former members) are jointly and severally liable for the VAT debt of the group during the period of their membership.

A penalty may be imposed by the tax authority if a business fails to register at the correct time.

## Does the same registration limit apply to non-established businesses?

The normal VAT registration limit does not apply to businesses that are not established in the UK, but for the purposes of the tax are making taxable supplies there. Those businesses will need to register for VAT as soon as they commence trading in the UK, or have a reasonable expectation of trade in the next month, irrespective of the level of turnover.

Registration for VAT in the UK may also be required where a non-established EU business is involved with distance selling. Distance selling occurs when a taxable supplier in one EU country supplies and delivers goods to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organisations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

Each EU country has the option of applying a distance selling threshold of either €35,000 or €100,000 euros per calendar year, or the equivalent in its own currency. The UK has adopted an annual threshold of £70,000 which equates to the upper threshold in euros.

Distance sales from another EU country to non-taxable persons in the UK will be subject to VAT at the appropriate rate in the suppliers country. However, once the value of those distance sales to the UK exceeds the UK threshold of £70,000:

- the supplier becomes liable to register for VAT in the UK
- the UK becomes the place of supply
- any further sales to customers in the UK are subject to UK VAT.

Suppliers can choose to make the UK the place where the goods are supplied by registering for VAT voluntarily before the threshold is reached.

## Is there any specific legislation to tax non-resident supplies of electronically supplied/digital services to private consumers resident in your country?

With effect 1 January, 2015, Article 58 of Directive 2006/112/EC was amended. The rules determining the place of supply of electronically supplied services supplied to private consumers (B2C) changed from the Member State where the supplier belongs (i.e. where established) to the Member State of the consumer. The result of this is that local VAT is chargeable at the applicable rate in each of the Member States in which electronically supplied services are made (i.e. where the customer belongs). Therefore B2C supplies of electronically supplied services to customers in the UK are subject to UK VAT. To ensure compliance with this, suppliers have the choice to either register for VAT in each Member State where their customers reside, or elect to register under the EU VAT MOSS simplification scheme in a single Member State (where they are established). Businesses with multiple establishments in the EU can choose which Member State to operate MOSS (the Member State of Identification). However, the MOSS cannot be used to report local sales to customers in a Member State in which suppliers of electronically supplied services have a fixed establishment. Non-EU suppliers without an establishment in a Member State are free to select a Member State of their choosing to operate MOSS and become their Member State of Identification. The UK is popular choice for a MOSS registration due to the English language.

## Does a non-established business need to appoint a fiscal representative in order to register?

The Tax Authority in the UK may direct a person to appoint a VAT representative to act on his behalf for VAT purposes where the person:

- is a taxable person or makes taxable supplies or acquires goods in the UK from one or more other EU countries
- is not established, and does not have a 'fixed establishment' in the UK
- is established in a country or territory which is not an EU country (or part of such a country) and where it appears to the UK tax authority that there is no provision for mutual assistance similar to that which provided between the UK and other EU countries
- in the case of an individual, he does not have his 'usual place of residence' in the UK.

## How often do returns have to be submitted?

VAT returns normally cover an accounting period of three months, ending on the last day of a calendar month. A business can request a specific accounting cycle to coincide with its financial or management reporting. Businesses that are in a net repayment position (because of the nature of their activities) and those incurring exceptionally high expenditure (for example, as a result of set up costs or a capital project) can apply to submit returns on a monthly basis to improve cash flow.

All VAT returns have to be submitted within 30 days of the end of the relevant accounting period, together with any tax due. As all returns and payments have to be submitted electronically, taxpayers get a further seven days (in addition to the normal 30 days) in which to submit the return and pay the tax due.

Businesses that had a taxable turnover exceeding £2.3m in the preceding calendar year, must make interim VAT payments every month. An interim payment must be made at the end of the second and third months in each accounting period. A balancing payment for the quarter is then made when the return is submitted.

## Are penalties imposed for the late submission of returns/payment of tax?

A default surcharge penalty may be imposed by the tax authority if VAT returns are not submitted on time, or the related tax is not paid by the due date.

For the first late submission or payment, the tax authority will issue a notification to the taxpayer confirming that a penalty may be imposed in the future. If another submission or payment is late within the next 12 months, a fixed percentage penalty is imposed on that occasion. The percentage penalty is increased for subsequent defaults (up to a specified maximum), unless returns and the related payments are made on time for a 12 month period.



## Are any other declarations required?

Businesses that are registered for VAT in the UK, and make supplies of goods or services to traders registered for the tax in other EU countries are required to complete and submit EC Sales Lists (ESLs). The ESLs must show details of the recipients of the goods and services.

Generally, where the value of goods supplied to businesses in other EU member states exceeds GBP 35,000 in the current or four previous quarters, the ESLs must be submitted each calendar month. Otherwise the document for goods is submitted for each calendar quarter.

ESLs for services should be submitted for each calendar quarter.

In addition, if the value of the intra-EU trade in goods dispatched to, or arriving from, other EU countries is above an annual threshold, a supplementary declaration (referred to as an Intrastat declaration) has to be submitted for either or both. These declarations have to be submitted on a monthly basis.

Both declarations are used for statistical reporting purposes across the EU and are not tax returns, though they should be reconciled back to VAT returns submitted.

## Are penalties imposed in other circumstances?

Yes. A range of penalties can be imposed where businesses do not comply with the VAT rules.

Civil penalties and interest can be applied for errors and omissions made on tax returns, or where the tax is paid late. Penalties can also be applied where the business has failed to maintain adequate records, provide information (including additional declarations), or makes repeated mistakes.

Criminal proceedings may be brought in the case of more serious matters.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in the United Kingdom?

Yes, it may be possible to reclaim the VAT incurred in certain circumstances.

Two schemes exist, one for businesses established in the EU and another for businesses established elsewhere.

The EU cross border refund scheme is available in all EU Member States, and enables a business established in an EU country to recover VAT incurred in another Member State. To be eligible to make a claim, the claimant must be a taxable person established in an EU Member State other than the one from which the claim is to be sought. In addition, the claimant:

- must not be registered, liable, or eligible to be registered in the member state from which he is claiming the refund
- must have no fixed establishment, seat of economic activity, place of business or other residence there
- during the refund period he must not have supplied any goods or services in the member state of refund, apart from certain limited exceptions.

The amount that is refundable is determined by the deduction rules that apply in the Member State making the refund. The claim is submitted electronically via a portal in the home tax authority in the Member State where the claimant is established.

The refund period must not cover more than one calendar year or less than three calendar months – unless it is covering the remainder of a calendar year. The claim has to be made by 30 September of the year following that in which the VAT was incurred.

Businesses established outside of the EU can, subject to certain conditions, also reclaim the VAT incurred on imports into the UK or purchases of goods and services used in the UK. The scheme is available to any person carrying on a business established in a third country, ie outside the EU, provided that in the period of the claim:

- he was not registered or liable to be registered for VAT in the UK
- they were not established in any EU country
- they made no supplies of goods and services in the UK other than certain specified exceptions
- where they are established in a third country having a comparable system of turnover taxes, unless the UK tax authority allows otherwise, that country provides reciprocal arrangements for refunds to be made to taxable persons established in the UK.

The claim period in the UK is from 1 July to 30 June each year. Claim forms have to be submitted to the UK tax authority no later than six months from the end of the relevant designated year, ie by 31 December each year.

### What information must a VAT invoice show?

A VAT invoice must show:

- an invoice number which is unique and sequential
- the seller's name and address
- the seller's VAT registration number
- the invoice date
- the time of supply (also known as tax point) if this is different from the invoice date
- the customer's name and address
- a description sufficient to identify the goods or services supplied to the customer
- the rate of any cash discount
- the total amount of VAT charged expressed in GBP.

For each different type of item listed on the invoice, the following must be shown:

- the unit price or rate, excluding VAT
- the quantity of goods or the extent of the services
- the rate of VAT that applies to what's being sold
- the total amount payable, excluding VAT.

Where a VAT invoice includes zero-rated or exempt goods or services, it must:

- show clearly that there is no VAT payable on those goods or services
- show the total of those values separately.

Where a business makes retail sales and makes a sale of goods or services for £250 or less including VAT, a simplified VAT invoice can be issued.

VAT invoices can be issued, received and stored in electronic format and there is no need to inform the tax authority. Electronic invoices must contain the same information as paper invoices. The method used to ensure the authenticity of origin, the integrity of content and legibility of the invoices is a business choice and can be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

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# Uzbekistan

## Indirect tax snapshot

|   |   |
|---|---|
| <i>What are the current rate(s) of VAT?</i>   | <ul style="list-style-type: none"> <li>The 20% standard rate of value-added tax (VAT) applies to most transactions.</li> <li>Exports and certain agricultural inputs such as fertilisers, fuel and lubricants are zero-rated.</li> </ul>  |
| <i>Are there any confirmed or anticipated changes to these rates?</i>                                     | No.   |
| <i>What is the principal indirect tax?</i>  | Value Added Tax (VAT) is the principal indirect tax in Uzbekistan. It is a tax on consumer expenditure, and is collected on business transactions and imports.  |
| <i>Is there a registration limit for the tax?</i>   | <p>Yes. The following entities do not pay the value added tax:</p> <ul style="list-style-type: none"> <li>non-profit organisations, with the exception of turnover from the sale of goods (works, services) within the business</li> <li>legal entities under the simplified tax regime.</li> </ul> |
| <i>Does the same registration limit apply to non-established businesses?</i>                              | No. Works and services provided by non-residents of the Republic of Uzbekistan, are taxable turnover of Uzbekistan taxpayer who receives works and services if the place of realization is the Republic of Uzbekistan, and shall be subject to value added tax in accordance with the tax code.     |
| <i>Does a non-established person need to appoint a fiscal representative in order to register?</i>        | No.   |
| <i>How often do returns have to be submitted?</i>   | Most businesses are required to submit VAT returns covering three month accounting periods.   |
| <i>Are penalties imposed for the late submission of returns/payment of tax?</i>                           | Yes. If a VAT return, or the corresponding payment, is submitted late a penalty can be imposed.   |
| <i>Are any other declarations required?</i>   | Yes. Taxpayers also provide registers of invoices for goods (works, services) purchased and sold during the fiscal period.  |
| <i>Are penalties imposed in other circumstances?</i>  | Yes. Penalties can be imposed for a range of errors or omissions.   |
| <i>Can the tax incurred by overseas businesses be claimed if they are not registered in your country?</i> | No.   |



### What is the principal indirect tax?

The VAT being one of the main indirect tax in Uzbekistan, was introduced from 1 January 1992. VAT – an indirect tax that is included in the price of goods and services and, accordingly, must be paid to the budget at the expense of customers. During the course of VAT in the Republic of Uzbekistan there were resizing the tax rate, which was originally 30% in 1992, 25 % in 1993-1994, and from 1998 to the present day rate is 20%.

At the same time, also there is VAT at the zero rate, and there is, as in all countries, the VAT exemptions. Exports and certain agricultural inputs such as fertilisers, fuel and lubricants are zero-rated. Exemptions include financial services, public utilities, municipal passenger transport and public education services.

Payers of value added tax are:

- legal entities, which have taxable turnover
- legal entities, which are obliged to pay the value added tax for the taxable turnover carried out by non-residents of the Republic of Uzbekistan
- legal entities and individuals importing goods into the territory of the Republic of Uzbekistan
- partner (member) – a legal entity entrusted with the conducting business of a partnership (the trustee) in carrying out taxable turnover.

The objects of taxation are:

- turnover on the sale of goods (works, services)
- import of (works, services).

### Is there a registration limit for the tax?

A single, general tax registration encompasses VAT registration. There is no separate VAT registration requirement in Uzbekistan. The following entities do not pay the value added tax:

- Non-profit organisations, with the exception of turnover from the sale of goods (works, services) within the business
- legal entities under the simplified tax regime.

The legal entities payers of unified tax payment, may pay the value added tax on a voluntary basis by written notification submitted to the state tax service in place of tax registration no later than a month before the beginning of the next quarter, and for the newly created entities – before the beginning of the activity.

### Does the same registration limit apply to non-established businesses?

Works and services provided by non-residents of the Republic of Uzbekistan, are taxable turnover of Uzbekistan taxpayer who receives works and services if the place of realization of the works and services is the Republic of Uzbekistan, and shall be subject to value added tax in accordance with the tax code.

The taxable base is determined based on the amount payable to the non-residents of the Republic of Uzbekistan, without deducting the amount of income tax to be withheld at source on income derived from sources in the Republic of Uzbekistan.

### Does a non-established business need to appoint a fiscal representative in order to register?

No.

## How often do returns have to be submitted?

The value added tax returns are submitted to state tax authorities at the place of tax registration on a quarterly basis no later than the 25th of the month following the reporting quarter, and the annual value added tax returns – by the date of submission of annual financial statements.

Value added tax due to be paid by:

- micro-firms and small enterprises, who are subject to value added tax – not later than the date for submission of the value added tax returns
- taxpayers who do not belong to the micro-firms and small enterprises – monthly no later than the 25th of the following month, and by the end of the year – no later than the deadline for submission of annual financial statements.

Payment of value added tax on imported goods should be made in the terms established by the customs legislation.

## Are penalties imposed for the late submission of returns/payment of tax?

Late submission of tax reports made repeatedly during the year after the application of administrative penalties is punishable by a fine. Late submission of tax reports punishable by a fine in the amount of 1% for each day of delay, but not more than 10% of the amount of vat payable by the date of payment with exemption of previously accrued amounts for the reporting period.

Violation of the terms of payment of taxes and other mandatory payments is punishable by a fine in the amount of 0.05% for each day of delay, starting from the day after the due date of payment to the date of payment, inclusive.

## Are any other declarations required?

Taxpayers also provide registers of invoices for goods (works, services) purchased and sold during the fiscal period. Form of the register of invoices established by the State Tax Committee of Uzbekistan.

## Are penalties imposed in other circumstances?

Yes. Reflection the VAT on the invoice of sales of goods (works, services) that are not subject to value added tax, as well as the sale of goods (works, services) by suppliers who are not payers of value added tax, shall result in the fines on suppliers in the amount of 20% of the value added tax indicated in the invoice. In this case, the supplier shall also make the payment in amount of tax specified in the invoice.

## Can the VAT incurred by overseas businesses be claimed if they are not registered in Uzbekistan?

No.

## What information must a VAT invoice show?

An invoice is a document of strict accountability, which contains the following information:

- the number and date of issue of the invoice
- the number and date of shipping documents or the contract, which the invoice is attached
- the name, address (postal address), and identification number of the taxpayer and the buyer of goods (works, services)
- the name of goods sold, works and rendered services and units of measure (if possible)
- the amount (volume) of goods sold, work performed, services rendered by the invoice based on units of measure (if possible)
- price (tariff) for the unit under the agreement (contract), excluding value added tax, as in the case of state-controlled prices (tariffs), including the value added tax – given the amount of value added tax
- the value of the total amount (volume) of the traded goods, works, services rendered without value added tax
- the rate and amount of excise duty on excisable goods
- the rate and amount of value added tax, is offered to the buyer of goods (works, services)
- the total amount (volume) of the traded goods, works, services rendered, including the excise tax on excisable goods and the value added tax.

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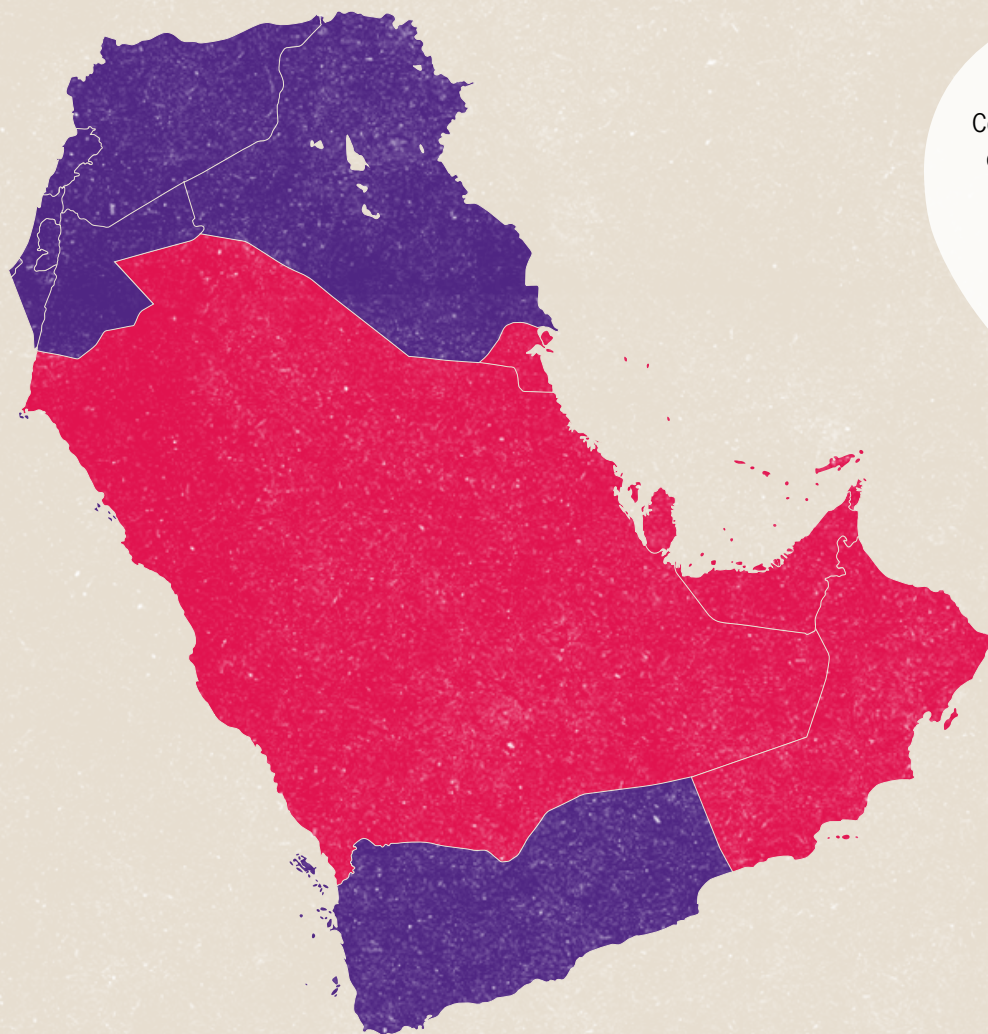
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# Indirect tax overview

## – Middle East



Gulf Cooperation Council (GCC) member countries have from 1 January 2018 to 1 January 2019 to implement VAT.

The UAE will implement VAT at the rate of 5% from January 2018.

### Middle East

#### Kuwait

Standard rate: No VAT system

Other: No VAT system

# Gulf Cooperation Council

The Middle East is expecting momentous changes. In a move to generate additional revenue and diversify the economy, the Gulf Cooperation Council (GCC) countries – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates – are expected to levy VAT from 2018.

## Kuwait

Kuwait currently does not currently impose VAT. However, there are plans to introduce it in the future along with increasing custom tariffs as measures to improve the gross domestic product of non-oil revenues.

The chances of such regulations passing by the parliament will be higher the longer the decline in oil prices persists.

In addition to VAT and the increase on custom tariffs, there are studies in progress to impose taxes on earnings of local Kuwaiti companies.

## United Arab Emirates

It has been confirmed that the United Arab Emirates will implement value added tax (VAT) at the rate of five per cent from 1 January 2018. Obaid Humaid Al Tayer, Minister of State for Financial Affairs, said that “GCC countries have from 1 January 2018 to 1 January 2019 to implement VAT.” He confirmed that each country represented in the GCC can implement VAT within that time period and continued that “a lot of ground work needs to be done before implementing VAT”.<sup>1</sup> He continued that the GCC countries are currently working on a framework, which he expects to be agreed upon and made public in June of this year.<sup>2</sup>



<sup>1</sup> UAE to implement 5 per cent VAT from January 2018  
(Gulf News)

<sup>2</sup> Five per cent value added tax in UAE from 2018  
(Khaleej Times)

Following the announcement, it has been confirmed that the UAE will impose five per cent VAT while exempting 100 food items, healthcare and education. It has been claimed that by imposing VAT, the country could generate upwards of Dh12 billion from tax revenue in the first year. The move to implement VAT will enable the GCC to continue diversifying the economy and hence, become less reliant on oil revenues to promote long term growth and sustainability. “Even with a low tax rate of five per cent, with the introduction of VAT, it will not be difficult for GCC states to generate tax revenues up to two per cent to gross domestic product,” said Christine Lagarde at the Arab Fiscal Forum this month<sup>1</sup>.

Following on from the statement at a press conference, Obaid Humaid Al Tayer continued and stated that the UAE is not currently undertaking any study on personal income tax and that no such proposal was under consideration. He said “that the current priority of the Ministry was to put in place the infrastructure required for the implementation of VAT”.<sup>3</sup>

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<sup>1</sup> UAE to implement 5 per cent VAT from January 2018 (Gulf News)

<sup>2</sup> Five per cent value added tax in UAE from 2018 (Khaleej Times)

<sup>3</sup> UAE confirms no income tax yet, but 5 per cent VAT is coming (online)



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