



## More flexibility on VAT rates



On January 18th, 2018 the European Commission proposed new rules in order to give Member States more flexibility to set Value Added Tax (VAT) rates. It plans the creation of a single EU VAT area in order to dramatically reduce the €50 billion lost to VAT fraud each year in the EU.

As the EU's common VAT rules are out of date and too restrictive, Mr Pierre MOSCOVICI, Commissioner for Economic and Financial Affairs, Taxation and Customs, said that these proposals will give EU countries greater freedom to apply reduced VAT rates to specific products or services..

Member States can currently apply a reduced rate of as low as 5% to two distinct categories of products in their country. A number of Member States also apply specific derogations for further reduced rates.

In addition to a standard VAT rate of minimum 15%, Member States would now be able to put in place:

- two separate reduced rates of between 5% and the standard rate chosen by the Member State;
- one exemption from VAT (or "zero rate");
- one reduced rate set at between 0% and the reduced rates .

The current, complex list of goods and services to which reduced rates can be applied would be abolished and replaced by a new list of products (such as weapons, alcoholic beverages, gambling and tobacco) to which the standard rate of 15% or above would **always** be applied.

To safeguard public revenues, Member States will also have to ensure that the weighted average VAT rate is at least 12%.

### Reducing VAT costs for SMEs

Under current rules, Member States can exempt sales of small companies from VAT, provided they do not exceed a given annual turnover, which varies from one country to the next. Growing SMEs lose their access to simplification measures once the exemption threshold has been exceeded. Also, these



exemptions are available only to domestic players. This means that there is no level of playing field for small companies trading within the EU.

While the current exemption thresholds would remain, today's proposals would introduce:

- A €2 million revenue threshold across the EU, under which small businesses would benefit from simplification measures, whether or not they have already been exempted from VAT;
- The possibility for Member States to free all small businesses that qualify for a VAT exemption from obligations relating to identification, invoicing, accounting and returns;
- A turnover threshold of €100,000 which would allow companies operating in more than one Member State to benefit from the VAT exemption.

These legislative proposals will now be submitted to the European Parliament and the European Economic and Social Committee for consultation and to the Council for adoption. The amendments will become effective only when the switch to the definitive regime effectively takes place.

Source: European Commission – Press release of 18 January 2018

## Novelties regarding VAT for the e-commerce

Regarding electronic services and distance sales of goods, new rules will apply in 2 steps: the first one will be due on 1 January 2019, the second one on 1 January 2021.

Those reforms are more concretely aimed at

- operators who sell electronically supplied services or goods via internet to non-taxable persons;
- operators using a virtual marketplace, platform or portal in order to facilitate sales of electronic services or goods via internet.

The VAT MOSS (mini-one-stop-shop) platform will be used in the cases below, in particular for VAT declarations and payment; the five major changes will concern:

**1. Operators established in the EU selling electronically supplied services to taxable persons established in the EU:**



With effect from 1 January 2019 a threshold of EUR 10,000 will be applied for electronically supplied services to taxable persons established in the EU. Operators' services invoicing shall then be subject to the VAT rules applying in the **Member State of the operator** up to the amount of the threshold. Where the threshold is

exceeded, VAT must be declared and paid in the **client's Member State** via the VAT MOSS platform.

**2. Operators established in the EU selling goods and services via internet to non-taxable persons established in the EU:**

So far, the applicable VAT is the one of the country of the shipping party until the threshold of the customer's country is reached; beyond this threshold the applicable VAT is the one of the customer's country which requires a procedure causing high administrative expenses. As from 1 January 2021 the different countries' thresholds for intra-Community distance sales of goods and services to non-taxable persons will all be replaced by a **unique threshold of €10,000**. Below this threshold VAT invoicing will be subject to the **country of establishment for the services** and subject to the **country of departure of the transport for the goods**. This is applicable as long as the cumulative value of the goods' and services' sales does not exceed the threshold; beyond that limit, they will use the VAT MOSS platform in their country of establishment to declare and pay the VAT according to the rules of their client's Member State.

**3. Operators from third countries identified to VAT of a Member State:**

So far, these operators weren't allowed to use the VAT MOSS platform. Yet, **from 1 January 2021** they will have the possibility to declare their sales of electronic services and goods via internet by the VAT MOSS platform in the Member State of their choice.

**4. Operators using a virtual marketplace, platform or portal in order to facilitate sales of electronic services or goods via internet:**

Until 1 January 2019 VAT on sold services and goods won't be due by the operators but by their final customers. Yet after that date, these operators will themselves be considered as **receivers and sellers of the concerned goods**

- if the goods of an intrinsic value not exceeding €150 are imported to the EU and delivered to an individual person or
- if the seller delivering the goods from the EU is established outside the EU.

**5. Imports of low cost goods towards the EU:**

Before 1 January 2021 imported goods with a value less than €22 are exempted from VAT. After that date this exemption is cancelled. The seller may however – under certain conditions – continue to benefit of the VAT exemption on imported goods if their value doesn't exceed €150 and if he opted for the declaration and payment of VAT via the VAT MOSS platform. In this case he will have to charge the VAT of the **country of destination** to his customer.



We obviously remain at your disposal for more details or further information, should you need them.

TAXE SUR LA V.	
EXTRAIT DE COM	
En date du 01.01.2018 la situation des post	
présente comme suit:	
T.V.A.	
Libération / Bulletin d'imposition /	Period: Date dépôt

We'd also like to draw your attention to the fact that from now on the "Administration de l'Enregistrement et des Domaines" doesn't send the periodic VAT statements anymore; henceforth these extracts can be consulted only by means of a LUXTRUST product.

## The substance question in Luxembourg

### Economic substance: what is it ?

The economic substance reflects the economic reality of an activity. It gathers a series of proofs **as well on the company's level as on the personal level** in order to provide evidence for a real activity in Luxembourg.



The tax regime applied on the company's profits cannot depend on the sole presence of a company's head office in Luxembourg. The company must provide evidence of its economic substance in the country of establishment in order to be able to benefit from the local tax system.

### Proof of economic substance

On the company's level, it should (non-exhaustive catalogue):

- have a head office in Luxembourg with infrastructures furnished in adequacy with its activity, the number of employees, etc.;
- prove running costs in Luxembourg;
- generate services or product sales from the Luxembourg territory;
- have local partners (customers, suppliers, etc.);
- etc.

Those proofs are variable and differ depending on the company's activity or its development progress.

On the personal level, we have advice in particular for the **Belgian residents waged in Luxembourg**, who's Luxembourg income is exempted from Belgian tax by convention between both countries. This convention is in disfavour of the Belgian administration and the latter will try to prove an insufficient presence of the employee on the Luxembourg territory, in order to reclassify his Luxembourg salary so that it will be charged with Belgian tax.



**You want to know more? Contact us for any further information.**

**BEWARE** : Since 29 March 2018, the "Registre de Commerce et des Sociétés" (RCSL) changed its name and became the "Luxembourg Business Registers" (LBR). From now on you will reach its web site by the following new url:  
[www.lbr.lu](http://www.lbr.lu)



## The yellow plates again in the sights of the Belgian customs – watch out to get your things in order



A fine is determined for every vehicle registered in Luxembourg and driven by a Belgian resident **who has not in his car:**

- a copy of his Luxembourg employment contract;
- a nominative document by the employer certifying the provision of the vehicle by the company.

We would also like to remind you that only the members of the household are authorized to drive the vehicle.

An exception is however possible if the person who, due to the contract of employment, benefits from the vehicle redacts a document certifying that he/she lends the vehicle for a **maximum duration of one month** to a person who is not member of the household. In that case, the document has also to be on board of the vehicle.

Fines can be very severe, given that they correspond to the amount of the motor vehicle tax plus the entry into service tax of the vehicle.

To which is added a fine twice the amount of the evaded part of the tax with a minimum of EUR 100 and a maximum of EUR 1,250.

Source: L'essentiel of April 4th, 2018

## Special leave for a father



From 2018 onwards, the special leave to which a father is entitled after the birth of his child or in case of fostering a child under the age of 16, changed from 2 days to 10 days.

In order to be able to benefit from it, the employee has to inform in writing his employer 2 months before the predictable dates when he intends to take the leave. Otherwise, **the leave can be reduced to 2 days by the employer.**

The employee will have to attach to his mail:

- a copy of the medical certificate stating the presumed date of birth or
- a document certifying the predictable date of the arrival of the adopted child.

This special leave can be split and must be taken during the 2 months following the event. They are in principle established according to the desire of the employee unless the company's needs oppose it.

Important: **this leave is covered by the state budget from the 3rd day onwards** and at the request of the employer.

For that purpose, the employer will have to claim to the Minister of Labor the refund of the advanced wages within 5 months from the date of birth of the child or arrival of the foster child together with the supporting documents.

Source: <https://www.fedil.lu/publications/le-conge-de-paternite-application-pratique-par-le-ministere/?pdf>

## SPOT ON an employee of FOP Groupe fiduciaire



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**Célia, could you tell us in a few sentences what a typical day at EUROPTAX looks like for you?**

Generally, I start my day by reading the emails I have received during my absence and by answering them. Then, there's always one or another emergency which I handle first and foremost, before moving to something else; at the same time, I meet the various requests I get. When all this is done,

I can take care of the encoding of various accounting documents provided by our customers in order to prepare the related taxes and VAT declarations. Obviously, according to the period of the year, I also prepare the annual accounts.

**According to you, what is the most interesting aspect of your work?**

What I like the most in my line of work, is that I stay in touch with two different legislations on a daily basis. Indeed, I take care as well of the accounting and tax system of Luxembourg based companies as the accounting and tax system of Belgian companies: both are to be treated as two very different universes.

**Has there been a particular professional challenge that you'd like to share with us?**

When I joined FOP Groupe fiduciaire, I was offered to handle also the accounting of Belgian companies. As I came from a Luxembourg fiduciary where I was in touch exclusively with Luxembourg based companies, it became necessary for me to update my knowledge of the Belgian legislation that I had learned during my studies; I thus had to recollect the various aspects which differ from the legislation of Luxembourg accounting.