

## VAT NEWS



### Addressing the VAT challenges due to Covid-19 crisis: Extraordinary VAT measures adopted in Luxembourg & practical suggestions for the improvement of your business' VAT position

As Covid-19 spreads around the world, businesses are confronting with an unprecedented economic downturn. Reduced turnover, equal or higher expenses and an increase in bad debts. In response to this disruption, governments are turning to emergency support packages. Urgent questions related to your business' VAT function, including VAT relief, compliance deadlines, refunds, credits, and debt forgiveness, are being raised.

Below we give you an insight into the extraordinary VAT measures adopted in Luxembourg so far as well as we address the main questions occurred and we share with you some practical suggestions which can improve your business' VAT position.

#### I. What are the extraordinary VAT measures introduced in Luxembourg until today?

On 17 March 2020, the government of Luxembourg introduced a series of new tax and VAT measures in response to the COVID-19 crisis.

As a result the VAT authorities launched the automatic refunds of all pending VAT credit balances of up to EUR 10,000. This measure should concern around 20,000 taxpayers established in the Grand Duchy. To obtain a refund of a larger credit the procedure outlined in Article 55.3 of the VAT law shall be followed.

In addition, although there has been no specific extension of deadline for the filing of VAT returns, the VAT authorities have declared that no penalty will be imposed for the late filings until further notice.

The statistical office of Luxembourg (STATEC) extended the deadline for the filing of Intrastat returns for the months from February to May 2020. The extended deadlines are as follows:

Reference month	Extended deadline for submission
February 2020	24 April 2020
March 2020	15 May 2020
April 2020	08 June 2020
May 2020	30 June 2020

As from June 2020, Intrastat returns shall be filed within the usual deadline, namely on the 16th working day of the following month.

Additional measures allowing the deferral of VAT payments and the reimbursement of VAT balances over EUR 10,000 in a more rapid and flexible manner could still be announced in the following days.

## II. Can my business reclaim VAT paid to the authorities on “bad debts”?

VAT paid to the Luxembourg VAT authorities can be reclaimed on the condition that your business can reasonably prove that the customer will not pay (or not pay in full) the total price invoiced to it. Such assessment should be made on a case-by-case basis and your business shall submit a relevant supporting documentation to the VAT administration.

If the customer has not paid or not paid in full the amount invoiced within two years from the date on which VAT was due, then your business shall in any event adjust the VAT paid.

The refund of VAT already paid to the Luxembourg VAT authorities must be requested in the regular VAT return.

## III. What are the main VAT consequences of the cancellation of events or meetings?

Due to the disruption of the market and the travelling restrictions, cancellations of events or meetings have become very common. However, your business might be able to mitigate the financial damage it suffers by reclaiming VAT. The underlying idea behind this is that effectively no provision of services took place, therefore VAT should not have been levied. Please note that a separate scheme applies to travel agencies (which sell travel arrangements under their own name).

The three different scenarios that your business might face upon a cancellation are the following:

- In case the customer is refunded the full amount paid, and your business has already paid the VAT included in this amount to the Luxembourg VAT authorities, your business can reclaim this VAT amount under certain conditions. Such VAT refund could be done through the filing of a corrective VAT return. If you have already submitted an invoice, we recommend issuing a credit invoice.
- If the customer is refunded part of the amount paid, the same applies to this part as discussed above in case of a full refund. Nevertheless, the VAT treatment of the non-refundable part of the amount paid depends on whether the latter qualifies as compensation or as a fee for the performance to which the customer was entitled, but which it did not enjoy. If the amount qualifies as compensation, the amount paid by the customer will be an amount without VAT. Your business can still reclaim the VAT already paid subject to certain conditions. On the contrary, if the amount qualifies as fee for a performance which was not

enjoyed by the customer, VAT will be due on the fee paid by the customer. Such situations should be dealt with on a case by case basis.

- If the customer must pay the full amount, then the same question whether this concerns a form of compensation not subject to VAT, or a fee subject to VAT paid for the right to a performance, should be addressed. Such situations should also be looked at on their own merits.

## IV. Practical suggestions for the improvement of your business' VAT position

In a downturn, every savings counts. To this end, your business should make use of the existing legal VAT toolkit to benefit from facilities when possible. Improving the VAT flow through the business can make a real difference to overall cash flows.

Please find below some of the measures that we suggest:

### A. VAT refunds

An analysis of whether your business is in a VAT credit position, including the situations explained above where such position might occur due to bad debts and/or cancellation of events/meetings, and the filing of corrective VAT returns and/or refunds applications with the Luxembourg VAT authorities are strongly advisable. Depending on your situation, your business may also contact the VAT administration, so that the relevant refund procedure could be accelerated.

### B. Incorporation of a VAT group & filing of one consolidated VAT return

Your business could examine whether the specific conditions laid down in the VAT law for the incorporation of a VAT group are met. If this is the case, then it can opt for such regime and benefit from the filing of only one consolidated VAT return for the VAT group as a whole. Thus, your business could offset any VAT payment position of some members of the group against VAT refunds positions of other members.

### C. Deferral of invoicing

Another way for the increase of your business' cash flow efficiency would be to issue invoices in a later VAT filing period, so that the payment of the VAT due to the VAT authorities is deferred. Please note that the invoice should be issued no later than the fifteenth day of the month following the month in which the service was provided.

### D. Application of cash accounting

In principle, VAT becomes due at the time the invoice is or should have been issued. However, your business could investigate if it is eligible for applying the cash accounting for VAT purposes. Under this scheme, VAT on turnover would only be due if the consideration was received from the customer. In practice, many businesses refrain from applying cash accounting due to the administrative burdens, but such scheme could be a useful tool in these special circumstances.

#### **E. VAT deregistration**

Following an analysis of your business' operations, a suspension of the operation of foreign offices and subsidiaries might be considered. In this regard, by VAT deregistering, you could terminate your reporting obligations and limit VAT liability.

#### **F. Contact with the VAT authorities**

Until the implementation of any other VAT emergency measures (if any), we recommend you to contact the Luxembourg VAT authorities, especially in the event of VAT payment difficulties due to Covid-19, and discuss about the potential VAT facilities, adapted to your situation.

#### **V. How could BDO help you?**

Should you have any questions on the above, or want to explore existing solutions for the improvement of your VAT position, tailored to your needs and the industry in which your business operates, please feel free to contact our VAT experts.

### **KEY CONTACTS**



**Erwan Loquet**  
 Partner  
 +352 45 123 436  
[erwan.loquet@bdo.lu](mailto:erwan.loquet@bdo.lu)



**Aurore Cersowsky**  
 Senior Manager  
 +352 45 123 482  
[aurore.cersowsky@bdo.lu](mailto:aurore.cersowsky@bdo.lu)



**Franziska Marder**  
 Senior Manager  
 +352 45 123 249  
[franziska.marder@bdo.lu](mailto:franziska.marder@bdo.lu)



**Marcin Wrotniak**  
 Manager  
 +352 45 123 245  
[marcin.wrotniak@bdo.lu](mailto:marcin.wrotniak@bdo.lu)

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained herein without obtaining specific professional advice. Please contact the appropriate BDO Member Firm to discuss these matters in the context of your particular circumstances. Neither the BDO network, nor the BDO Member Firms or their partners, employees or agents accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it. BDO is an international network of public accounting firms, the BDO Member Firms, which perform professional services under the name of BDO. Each BDO Member Firm is a member of BDO International Limited, a UK company limited by guarantee that is the governing entity of the international BDO network. Service provision within the BDO network is coordinated by Brussels Worldwide Services BVBA, a limited liability company incorporated in Belgium with its statutory seat in Brussels. Each of BDO International Limited, Brussels Worldwide Services BVBA and the member firms of the BDO network is a separate legal entity and has no liability for another such entity's acts or omissions. Nothing in the arrangements or rules of the BDO network shall constitute or imply an agency relationship or a partnership between BDO International Limited, Brussels Worldwide Services BVBA and/or the member firms of the BDO network.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.