

VAT Alert

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Turnover threshold for VAT exemption regime for small businesses increased to EUR 15,000: note the next deadlines

Anticipating on the formal voting of the measure in Parliament, the Belgian Ministry of Finance recently announced the extension of the VAT exemption regime for small businesses to entities and individuals who realise a yearly turnover of up to EUR 15,000, compared to the current EUR 5,580. Although businesses could already opt to already apply the exemption regime as of 1 April 2014, the change will affect businesses as of 1 July 2014. The exemption regime's impact is important. Therefore, businesses need to be aware of the deadlines if they wish to benefit from or wish to avoid the regime.

VAT exemption regime for small businesses

Based on article 282 *et seq.* of the VAT Directive, Belgian legislation foresees a VAT exemption for businesses which meet certain criteria in terms of the size of their turnover. It is an optional regime, meaning that businesses which meet the conditions can still opt for the normal VAT regime.

As of 1 July 2014 (1 April 2014 upon explicit option), the VAT exemption regime will be open for small enterprises (both physical persons, companies or other legal entities) of which the turnover does not exceed EUR 15,000 on a calendar year basis. The turnover calculation takes into account both taxed and exempt turnover, although some types of exempt turnover can be excluded. This exclusion concerns exempt (without credit) turnover based on article 44 § 1 and 2 of the VAT code (medical, social, cultural exemptions, etc.), as well as exempt financial or real estate turnover to the extent it is a secondary activity of the taxpayer.

Certain taxpayers are excluded from the VAT exemption regime, namely VAT groups, businesses active as real estate contractors, hotels, restaurants, etc. and suppliers of recycling materials and waste materials. Foreign businesses are also excluded from the regime and so cannot benefit from it.

Entry into force of the new regime

The extended VAT exemption regime will apply automatically from 1 July 2014, meaning that taxpayers meeting the conditions of the new regime will become subject to the VAT exemption on their sales. However, the VAT Administration announced that businesses of which the turnover in 2013 did not exceed EUR 15,000 (VAT exclusive), could opt to apply the exemption regime upon explicit demand as of 1 April 2014. In addition to this date however, the following dates are equally important :

- 1 June 2014: all businesses of which the turnover in 2013 did not exceed EUR 15,000 (VAT exclusive) and who *wish to remain under the normal VAT regime*, should inform their VAT office of this option before this date. If not, they will be automatically switched to the VAT exemption regime as of 1 July 2014. This

date is important for businesses experiencing such low turnover figures in 2013 because they were in a start-up or investment phase.

- 1 July 2014: all businesses of which the turnover in 2013 did not exceed EUR 15,000 (VAT exclusive) *will become subject* to the VAT exemption regime as of this date, unless they have opted out (see previous point).
- 15 December 2014: businesses not yet subject to the VAT exemption regime but which will meet the conditions (eg. because of a turnover below EUR 15,000 in 2014), should request the transition to the VAT exemption regime on 1 January 2015, doing so before 15 December 2014.

A switch to the VAT exemption regime is important. It entails that the business loses its VAT deduction on investment and other expenses for its (future) activity. It may also imply a recapture of previously deducted input VAT on investment goods.

Action required

The VAT exemption regime has many advantages in terms of administrative simplification, but should be carefully evaluated for those businesses concerned as it also means an extra cost because of the loss of VAT deduction. Also, the process elaborated by the Ministry of Finance, to operate the switch of the estimated 12,400 businesses and associations meeting the new criteria, forces companies with zero or limited turnover figures to take action to avoid a deregistration from the normal regime.

Contact

Any questions concerning the items in this publication? Please contact your usual tax consultant at our Deloitte office in Belgium or:

- Johan Van der Paal, jvanderpaal@deloitte.com, +32 2 600 66 39
- Guy Decoene, gdecoene@deloitte.com, +32 9 393 74 02
- Ivan Massin, imassin@deloitte.com, +32 2 600 66 52

For general inquiries contact:

- bedeloittetax@deloitte.com, + 32 2 600 60 00

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Berkenlaan 8b
1831 Diegem
Belgium

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