

## Input VAT newsletter

### Director fees: Circular of the Luxembourg VAT Authorities published

**3 October 2016**

On September 30, 2016, the Luxembourg VAT authorities have published the Circular n° 781 regarding the VAT treatment of director services and a comprehensive list of “frequently asked questions” available, in French, on their [website](#).

The Circular confirms that director services constitute an economic activity granting the status of taxable person for VAT purposes.

Luxembourg VAT is applicable on these services when they are located in Luxembourg by virtue of the place of supply rules. As a consequence, not only director services rendered by a Luxembourg director are subject to VAT (at the normal VAT rate of 17%) but it also means that VAT has to be self-assessed by each company considered as a taxable person and receiving such services from a non-Luxembourg director, based on the so-called reverse-charge mechanism. This could lead to a final cost of 17% for companies which have no VAT deduction right, unless an exemption applies for these director services. In their “frequently asked questions”, the VAT authorities remind that the taxable amount for VAT includes any amount paid to directors for their services, including the withholding tax applicable to director fees.

Luxembourg directors will have to be VAT registered as from January 1st 2017 at the latest and will have to file VAT returns to report their director fees income. This obligation of VAT registration does not apply to employees representing their employer as a director of companies. In such cases, the obligation of VAT registration and filing of VAT returns remains at the level of the employer.

The Circular reminds that services carried out within the frame of an honorific activity can benefit from the exemption of article 44.1. w) of the Luxembourg VAT law if the amounts received by the director could qualify as a reimbursement of costs.

The Circular also reminds that directors could opt for the regime of “small enterprises” available for taxable persons with an annual turnover of less than € 25,000 per year. In this case, the turnover will be exempt from VAT and the director will be subject to limited VAT obligations. However, even when this regime is applicable, the VAT registration remains mandatory.

Even if not mentioned by the Circular, it is commonly understood that services of directors of investments funds and other entities aimed by article 44.1.d) of the Luxembourg VAT law could be VAT exempt when they qualify as “specific and essential” for the activity of the fund.

This Circular is applicable as from January 1st 2017 and will have to be strictly respected by directors.

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