Belgium
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1. Introduction

1.1. Summary of VAT rates

In Belgium, the following VAT rates apply:
- **Standard rate:** 21 percent
- **Reduced rates:** 12 percent and 6 percent
- **Other:** Zero rate and exemptions.1

1.2. Legal basis

Belgium’s modern VAT legislation was first introduced under Belasting over de toegevoegde waarde (BTW) or Taxe sur la valeur ajoutée (TVA), July 3, 1969, as amended (the “VAT Code”). This VAT Code transposes European Union Directive 2006/112 on the common system of value added tax (the “EU VAT Directive”) into national law. The tax came into effect on January 1, 1971, and replaced the old cumulative turnover taxes.

The law was subsequently amended in 1992 and 1993 to bring Belgian legislation into compliance with EU law, as applied to the movement of goods between Member States. Movements between Member States and non-Member States continue to be treated, for VAT purposes, as imports and exports under the system in place prior to January 1, 1993. The law has been subject to a number of further amendments, and various Royal Decrees have been issued on various aspects of the law, such as record retention requirements and supplies subject to reduced VAT rates. In the hierarchy of norms and regulations in Belgium, the law is the highest national instrument, and a Royal Decree is second (followed by a Ministerial Decree).

Other tax codes do not have any provisions on VAT, however, all tax codes are related, e.g. certain tax registration exemptions depend on the transaction being subject to VAT (certain VAT exemptions follow the customs regime.)

As Belgium is subject to the supremacy of EU law, the provisions of the Belgian VAT Code should always be applied and interpreted in accordance with the EU VAT Directive, and the Court of Justice of the European Union’s (CJEU) interpretation of directives should also be followed by national courts. If there is a contradiction between the Belgian provisions and those of the Directive, the Belgian provisions can only be set aside if this is to the advantage of the taxpayer, but not if it is to his disadvantage. If the Belgian VAT Code contains provisions that are inconsistent with those of the EU VAT Directive, taxpayers can directly invoke those provisions of the EU VAT Directive.

Administrative supervision is carried out by the Belgian VAT Administration which also publishes guidelines on how to interpret VAT-related legislation: the administrative VAT manual, circular letters (i.e. more general guidelines issued by the central VAT office intended to instruct the different (local) tax offices), decisions (i.e. administrative viewpoints on specific cases, usually issued at the request of a taxpayer) and the answers of the Minister of Finance on parliamentary questions. In principle these administrative guidelines should always be in accordance with the law. In practice, however, these guidelines may contain certain simplifications or practical solutions that are as such against the law. Strictly speaking administrative guidelines that are against the law can never be enforced against either the VAT Administration or the taxpayer. A strict interpretation of the Belgian constitutional principle of legality demands indeed that the text of the law should always prevail. It is however questionable to what extent this approach is sustainable in light of the CJEU’s ruling in the case of Elmeka2 where the Court ruled that national tax authorities are obliged to respect the principle of protection of legitimate expectations. If a taxable person can reasonably believe that an administrative viewpoint has been taken by a competent authority, then the taxable person should be able to rely on that administrative viewpoint.

As discussed in Section 10.8, a binding advance tax ruling can be obtained from the Ruling Commission, to provide assurance about the application of specific VAT legislation, under specific circumstances. In addition, taxpayers may appeal disputes with the VAT...
Administered to the Courts, which issue published decisions; the Courts are not bound by precedent.

Import VAT is usually administered by the Customs and Excise Authority, but sometimes a permit can be obtained to pay import VAT via the regular periodical VAT return in which case import issues are dealt with by the VAT authorities.

A taxable person cannot appeal directly to the CJEU over a point of Belgian law, which the taxpayer considers to be at variance with EU law. Instead, the taxable person can address the point to the relevant Belgian court, which has the power to refer the case to the CJEU.

1.3. Recent developments

Currently, telecommunications, broadcasting, and electronic services rendered to non-taxable recipients in Belgium by a supplier established within the EU are generally subject to VAT in the country where the supplier is established. As of January 1, 2015, these services will be taxed in the Member State where the customer belongs, in accordance with European Council Directive 2008/8/EC of February 12, 2008 amending Directive 2006/112/EC.

In order to facilitate the application of the new rules, suppliers will be able to account for VAT in the other Member State via a single declaration in the state where the supplier has established its business, or is registered, in accordance with the new “Mini One Stop Shop” (MOSS) regime. This will prevent suppliers from having to register in every Member State where they supply their services. Suppliers will have to be able to demonstrate the actual location of the recipient (e.g. by relying on a customer’s bank data and IP address, among other things, as elements of proof of location). Suppliers may register for the MOSS as of January 1, 2014. (See Section 13.3 for further details.)

As of July 1, 2014, the threshold for the VAT exemption for small business increased from EUR5580 to EUR15,000.

As of April 1, 2014, Belgium reduced the VAT rate on supplies of electricity from 21 percent to 6 percent in the case of physical persons purchasing electricity for their own household use, and not for commercial or professional activities. This rate is scheduled to expire at the end of 2015.

As of January 1, 2014, lawyers will be required to charge VAT at the standard 21 percent rate on the services they provide. Lawyers were already generally regarded as taxable persons, but prior to that date, their services have been explicitly exempt from VAT. However, the Belgian legislature has decided to abolish this exemption, just as it had done so for notaries and bailiffs.

As of January 1, 2014, pursuant to Ministerial Decree of December 4, 2013, the capital assets threshold increased from EUR250 to EUR1000.

As of January 1, 2013, the Belgian government introduced a more favourable VAT deferral scheme for importers. While the importer of record must generally pay VAT on imports at the border, importers may apply for an “ET. 14000-license” which allows them to declare import VAT with their periodic VAT return. Prior to January 1, 2013, importers were generally required to pre-pay a portion of their estimated annual import VAT. The Circular of September 28, 2012 (No. ET.112.812) abolished this prepayment requirement.

2. Scope

2.1. In general

Belgian VAT is applicable to the supply of goods and the supply of services for consideration within the territory of Belgium by a taxable person acting as such. Importation of goods as well as the intra-Community acquisition of goods is also subject to Belgian VAT if the acquisition takes place in Belgium and if the goods are imported into Belgian territory. An intra-Community acquisition of goods is, generally, the counterpart of an (exempt) intra-Community supply of goods, which can be described as such by a business that is established in one EU Member State to a business in another, and which have been dispatched or transported from the territory of one Member State to another, as a result of the supply.

2.2. Territorial application

A taxable transaction will be subject to Belgian VAT if it takes place in Belgium (which includes the territorial seas of Belgium). No part of the Belgian territory is excluded for VAT purposes.

2.3. Taxable transactions – overview

Under the Belgian VAT Code, the following transactions are subject to VAT:

- A supply of goods, meaning the transfer of the right to dispose of tangible property as owner, if the supply is made for consideration. Certain free of charge disposals are, however, treated as supplies for consideration (e.g. a taxable person’s application of goods forming part of its business assets for its private use), provided that the VAT on such goods was wholly or partly deductible. A hire purchase is also treated as a supply of goods;

- A supply of services, meaning any transaction that does not constitute a supply of goods, if such supply is made for consideration;

- Certain free of charge transactions are treated as taxable supplies of services (e.g. the use of goods forming part of the assets of a business for a taxable person’s private use, where the VAT on such goods was partly or wholly deductible);

- Importation (i.e. the entry into the EU, of goods that are not in free circulation in the EU) provided that such entry into the EU takes place in Belgium; and

- An intra-Community acquisition (i.e. the acquisition of the right to dispose – as owner – of movable tangible property dispatched or transported to the taxable person acquiring the goods) by or on behalf of the vendor or the person acquiring the goods from the territory of a Member State other than that in which dispatch or transport of the goods began.

Under the VAT Code, a supply of goods through a “commissionaire” that acts in his own name, but on account of the principal to whom he is answerable is deemed to constitute two supplies i.e. a supply of
those goods and services to and, simultaneously, by the commissionaire.

2.4. Excluded transactions

For Belgian VAT purposes, certain activities are excluded completely from the VAT regime because they are not considered to be either a supply of goods or a supply of services for VAT purposes. The key transactions that fall outside the VAT system altogether include: a transfer of assets that constitute a whole business or an independent branch of activity to a VAT-registered person, where certain requirements are met (in principle the goods transferred could also be used to develop another business – and not necessarily the business transferred – as long as such goods are not merely sold as stock items); gifts; state services or services rendered by government bodies acting in their capacity as such, and supplies between members of the same “VAT group”.

3. Taxable persons

3.1. Definition/scope

Under Article 4 of the Belgian VAT Code, a taxable person is, generally, any natural or legal person who, in the exercise of its economic activity and in a regular and independent manner, on a principal or an accessory basis, supplies goods or services within the scope of the VAT Code, irrespective of the place where the economic activity is exercised and irrespective of a profit motive. Nonprofit organisations may be taxable persons, but public bodies generally are not.

A taxable person also includes the so-called “coincidental taxable person” who is otherwise not taxable, but who occasionally makes an exempt intra-Community supply of a new means of transport (such as, generally, a car that has travelled no more than 6000 kilometres) solely for that specific transaction. There is also another type of coincidental taxable person, namely the person who is otherwise not taxable, but who occasionally makes a supply of a new building and opts to apply VAT to such a supply.

Unlike other jurisdictions, Belgium does not treat “carrying on a business” as a requirement for taxability. Instead, exercising an economic activity in a regular manner is the trigger for registration. “Regularity” may refer either to repeated transactions, or to an intention to carry on regular activities. In the case of a person not established in Belgium, all its worldwide activities are taken into account to ascertain whether this test is met. The “independence” requirement generally excludes employees from the requirement to register.

Any person that meets this test is required to register for VAT purposes. However, if the annual turnover of the taxable person’s activities is below the threshold of EUR5580, it can opt for the exemption regime for small enterprises, under which it can opt to not charge or recover VAT. It is expected that starting April 1, 2014, the threshold of EUR5580 will be increased to EUR15,000.

Foreign taxable persons must also register if they carry out the activities described above if: (a) those activities are subject to Belgian VAT; and (b) the foreign entity itself is liable to pay the applicable VAT to the Belgian VAT authorities because the reverse charge mechanism discussed in Section 9.1 does not apply to make the Belgian customer, rather than the supplier liable for VAT. Foreign taxable persons cannot benefit from the exemption regime for small enterprises (even if their Belgian supplies are below the aforementioned threshold) and must register even if its Belgian supplies are below the EUR5580 threshold.

3.2. Voluntary registration

As a rule, foreign taxable persons cannot be registered for VAT purposes in Belgium if they are not liable to pay the Belgian VAT that is due on the taxable transactions carried out by them. However, in order to facilitate the recovery by foreign taxable persons of Belgian VAT on purchases, foreign taxable persons are allowed to register under the following circumstances:

- Any taxable person established outside Belgium who performs work on Belgian immovable properties (including not only construction work, but also maintenance or cleaning of immovable property); and
- Any taxable person not established in Belgium but established in another EU Member State who carries out transactions that are subject to Belgian VAT under the reverse charge mechanism provided that the taxable person regularly has a right to refund of more than EUR10,000 per year in Belgian VAT.

Belgian residents cannot register for VAT voluntarily, i.e. to be able to recover input VAT, if they do not meet the criteria outlined in Section 3.1, i.e. generally that they make taxable supplies in the course of an economic activity exercised in a regular and independent manner – however, all residents meeting this requirement, regardless of turnover, are obligated to register, even those with turnover below the threshold specified in Section 3.1, but they can opt for the exemption regime for small enterprises.

3.3. Exemptions from registration

In Belgium, the following persons will not be given a BE VAT identification number:

- Taxable persons who engage exclusively in exempt activities listed in Article 44 of the VAT Code. These activities include services provided by hospitals and similar establishments; letting of real property; the supply of building ground; insurance operations; most deposit and credit transactions; among other things. Therefore, hospitals, banks, and insurance companies are generally exempt persons for VAT purposes. These transactions do not grant a recovery of input VAT, or
- Coincidental taxable persons, i.e. a non-taxable person operating outside the scope of an economic activity, who either opts to apply VAT to a supply of a new building (or a right in rem thereon), or who makes an intra-Community supply of a new means of transportation (in which case the qualification as a coincidental taxable person is not optional).3
3.4. Group and divisional registration

Group Registration

In general, persons established in Belgium who are legally independent, but are financially, economically, and organisationally closely connected with one another can form a “VAT group” (btw-eenheid/l’unité TVA) so as to be regarded as a single taxable person for VAT purposes.

Requirements for group registration are elaborated in detail (such as the conditions under which sufficient interconnectivity is assumed, for instance) in Royal Decree 55 of March 9, 2007, which also lays down the legal framework for group registration.

Group registration requires sufficient interconnectivity on a financial, economic and organisational level:

- **Financial link:** this condition is satisfied when one taxable person holds a direct or an indirect participation of at least 10 percent of the share capital of another taxable person with which the VAT group would be set up. This condition is also satisfied if at least 10 percent of the share capital of the members is held (directly or indirectly) by the same shareholder. The shareholder is not required to become a member of the VAT group.

- **Economic link:** this implies that members either have the same type of activity, have complementary activities, or have an activity which is of an auxiliary nature towards the activities of other members.

- **Organisational link:** an organisational link exists if the various members are jointly managed or if the management of one member is subordinated to that of another member.

Group registration can be requested from the VAT Administration. Such a request is always voluntary, never mandatory. If all requirements of Royal Decree 55 are met, the VAT Administration will be obligated to grant group registration.

Furthermore, individual group members generally have the option not to join a financial group, although the option to remain independent cannot be exercised by a subsidiary in which the top company has a direct participation of more than 50 percent unless the subsidiary can establish that in substance, the two are not linked (e.g. economically or organisationally).

A VAT group is regarded as one taxable person and is registered as such under a unique VAT number that applies to the group as a whole. The VAT group must appoint one of its members as a representative, who is responsible for ensuring the entire group’s compliance with all VAT rules.

As a consequence of being regarded as one taxable entity, transactions between group members are not subject to VAT, and a supply of goods and services to one of the members is regarded as a supply to the entire group. Each member is jointly and severally liable for all VAT debts of the group.

The group representative submits a single VAT return on behalf of the group. Each group member is responsible, however, for submitting a separate European Supplies List, as discussed in Section 10.3.6.

A special document must be issued, in lieu of an invoice, in connection with transactions between members of a VAT group.

Divisional Registration

Under Belgian VAT law, it is not possible for a division that is not a separate legal person to separately register and file VAT returns.

3.5. Registration of non-resident persons

For purposes of Belgian VAT, a distinction needs to be made between non-resident persons with an establishment in Belgium and non-resident persons without an establishment in Belgium.

The Belgian VAT Administration assigns a VAT number to every non-resident who is established in Belgium under the same conditions that apply to Belgian resident taxable persons. It remains, however, the responsibility of the taxable person to apply for a VAT identification number. No registration threshold exists. To qualify for the assignment of a VAT number, the taxable person must, at a minimum, have a fixed establishment at its disposal in Belgium.

For these purposes, the VAT Administration provides that the following conditions must be met for the non-resident to be treated as having a fixed establishment at its disposal:

- The activity must be performed on a permanent basis in an establishment or any other installation;
- The activity of the Belgian establishment must consist of the supply of goods or services as set out by the VAT Code; and
- The person who, on a permanent basis, manages the establishment must be authorised to conclude contracts with clients and suppliers.

In general, any non-resident without a fixed establishment in Belgium will (upon request) be assigned a Belgian VAT number if it becomes liable to Belgian VAT on transactions it carries out.

Conversely, it is impossible for a non-resident taxable person to register for VAT if it exclusively carries out transactions that are subject to Belgian VAT under the reverse charge mechanism (i.e. where the recipient is liable to pay the VAT to the Treasury), save when the taxable person is eligible for voluntary registration under the conditions outlined in Section 3.3.

In addition, and distinct from the provisions requiring registration of non-Belgian established businesses that make taxable supplies in Belgium, “distance selling” provisions apply to EU businesses that supply goods (but not services) into Belgium to customers that are not themselves VAT registered (e.g., customers that are not businesses). These distance selling provisions require an EU business to register for Belgian VAT if it makes supplies to non-registered Belgian consumers and if such supplies exceed EUR35,000 in the present calendar year or have exceeded said amount in the previous calendar year (this second condition is not applicable in case the goods supplied are subject to excise duties). While an EU business’s distance sales to Belgian consumers would usually fall outside the scope of Belgian VAT, as the place of supply would usually be outside Belgium, the distance sales provisions (discussed in Section 5.5) cause affected supplies to be considered made in
Belgium. A distance seller that does not exceed the EUR35,000 threshold may also elect to register for Belgian VAT with respect to supplies of goods to Belgian non-taxable persons.

4. Taxable transactions

4.1. Goods

For Belgian VAT purposes, as a rule, any supply of goods for consideration carried out by a taxable person in the course of its economic activity is subject to Belgian VAT if its place of supply is Belgium, in accordance with the rules discussed in Section 5.

A “supply of goods” is the transfer or assignment of the right to dispose of goods, as the beneficial owner thereof. Certain other transactions are also specifically regarded as supplies of goods and are therefore subject to VAT. They include self-supplies (i.e., the transfer of goods from a business to personal use of the taxable person or its employees), the transfer of goods pursuant to the requisition by or in the name of a public authority or, more generally, pursuant to the law or an administrative regulation. Another type of transaction that is expressly assimilated to a supply of goods is the actual handing over of goods pursuant to a contract for the hire of goods for a certain period, or for the sale of goods on deferred terms, which provides that in the normal course of events ownership is to pass at the latest upon payment of the final instalment. This assimilation takes away any doubt as to the possibility to treat this type of arrangements as (leasing) services.

The term “goods” is defined in Article 9 of the VAT Code to include any tangible good, as well as the following items:

- Gas, electricity, heat, and refrigeration; and
- Other rights in rem that grant the holder thereof a right to use immovable property, other than certain long lease rights (erfpachtrecht/droit d’emphytéose) that the VAT Code assimilates under certain specific conditions to financial leasings of immovable property.

Under Article 11 of the VAT Code, the transfer of all assets of a business, or of a business division, i.e. a transfer of a going concern, is not considered a supply of goods, provided that the transfer is made to a taxable person who would otherwise be eligible for input VAT deduction if the supply were subject to VAT.

Under this provision, the recipient is treated as the supplier (for the purpose of the transferor for all other purposes). This exception under either of the following conditions:

- Under Article 16(1) of the VAT Code, the delivery of goods is complete; or
- Under Article 16(2) of the VAT Code, the delivery of goods is considered to have been completed upon receipt of payment.

Under Article 16(2) of the VAT Code, if the real tax point takes place after seven days of the date the invoice is issued, then VAT becomes chargeable at the point when the public body formally accepts the amount invoiced by its supplier. This exception is laid down in an administrative guideline (Decision ET 124.433 of April 17, 2014) and is subject to certain conditions including that the supply of goods does not fall under a reverse charge mechanism; the supply would otherwise fall under the general rule of Article 16(1) and not under Article 16(2) (which governs the timing rules for continuous supplies); and the parties have agreed to use this exception before the supply was actually made.

4.2. Services

Under the Belgian VAT system, as a rule, any supply of services for consideration carried out by a taxable person in the course of its economic activity is subject to Belgian VAT if the place of supply of the service is Belgium, in accordance with the rules set forth in Section 5.

Under the Belgian VAT system, a supply of services is generally, any transaction other than the supply of goods.
Article 18 of the VAT Code provides a non-exhaustive list of transactions that are considered to be services, including the following items:

- Construction work, such as constructing buildings or roads;
- Patents, trademarks and copyrights;
- Provision of parking or storage space, and of furnished accommodation;
- Restaurant meals;
- Banking and financial services;
- Telecommunication and broadcasting services; and
- Electronically provided services, including the hosting of websites, providing access to websites and databases, distance learning services, and the provision of software available for download.

A supply that would otherwise be treated as a service under Article 18 is not so treated to the extent it is performed as part of the transfer of all of the assets of a business, or a business division, the treatment of which is discussed in Section 4.1.

Under Article 19 of the VAT Code, the following additional transactions, treated as "self-supplies," though not specifically enumerated, are also treated as a supply of services:

- The use of business assets with respect to which an input VAT deduction was taken (other than certain capital and investment assets by a taxable person for purposes other than the person's economic activity such as personal use; and
- Work undertaken by a taxable person either: (i) for personal or other purpose unrelated to the business; or (ii) for purposes of the business, except, generally, to the extent that the work entails the construction of a building, or repairs, maintenance or cleaning services that, if performed by a different person, would give rise to a full input VAT deduction.

Certain supplies of services are exempt from VAT, as is discussed in Section 7.3. Zero-rated supplies are discussed in Section 7.4.

Article 22 of the VAT Code provides the timing rules governing the "tax point" when VAT becomes chargeable on a supply of services. Article 22(1) provides that in general, the tax point occurs when a service is performed.

The following exceptions to this rule apply:

- In the case of services that are continuously supplied, the services are deemed to be made at the end of each tax period for which an invoice is supplied or payment is made;
- In the case of cross-border services subject to the reverse charge, and which are provided continuously over a period in excess of a year, without invoices or statements, the supply is deemed to be made at the end of each calendar year, until the service terminates;
- If payment is made, in whole or in part, prior to performance of the service, the transaction becomes chargeable upon receipt of payment;
- If the price is invoiced, in whole or in part, prior to performance of the service, VAT becomes chargeable on the amount that has been invoiced. This is an optional and transitional rule that was introduced by the VAT Administration, and is scheduled to end on December 31, 2014 (Decision nr. ET 123.563 of December 19, 2012);
- With effect from January 1, 2015, a customer can treat the issuance of an invoice in advance of the performance of services as a deemed tax point under either of the following conditions:
  - The real tax point takes place within seven days of the date the invoice is issued; or
  - The real tax point takes place after that seven-day period, but the expected date thereof is stated on the invoice.

In principle, the supplier is only liable to account for the VAT if the real tax point (i.e. the payment or the taxable event) has taken place.

- With regard to the provision of services to private individuals by a taxable person who usually provides services to private individuals, and there is no obligation to issue an invoice, VAT generally becomes chargeable upon receipt of payment; and
- If services are provided to public bodies ("B2G transactions"), then VAT becomes chargeable at the point when the public body formally accepts the amount invoiced by its supplier. This exception is laid down in an administrative guideline (decision ET 124.433 of April 17, 2014) and is subject to certain conditions, among others the supply of services does not fall under a reverse charge mechanism; the supply would otherwise fall under the general rule of Article 16(1) and not under Article 16(2) (which governs the timing rules for continuous supplies); and the parties have agreed to use this exception before the supply was actually made.

4.3. Intangibles

For Belgian VAT purposes, the transfer of a patent right, trademark, copyright, an industrial design or model, other similar right, or the grant of a licence to such rights is treated as the supply of a service under Article 18 of the VAT Code. Intangibles that are not specifically enumerated under Article 18 should also be treated as supplies of services under the general rule that any transaction other than the supply of goods constitutes a supply of services.

Software, however, can be considered either as a good or as a service, depending on the characteristics. A software package sold off-the-shelf is considered a good for Belgian VAT purposes, even if it is accompanied by a licence limiting the user's application.

The supply of customised software, on the other hand, qualifies as a service, as does a software licence not related to a physical carrier, or a licence supplied with one or more carriers to install software on various work stations, provided the number of carriers is minimal in comparison to the number of licences supplied.

4.4. Immovable property

Under the Belgian VAT system, a distinction must be made between the supply of immovable property (or rights in rem thereon), which is a supply of goods, and the leasing of immovable property, which is a supply of services. Both types of transactions are usually exempt from VAT, but under certain conditions they will be subject to VAT.
Supply of Immovable Property (Or Rights In Rem Thereon)

The supply of “immovable property” is usually exempt from VAT, but is subject to another indirect tax, being registration duties. This applies for both land and buildings. However, the transfer of a new building (generally defined as constructions fixed to the ground) and the land on which the new building stands can be done with the application of VAT. In that event, no registration duties will be due.

For the supply of a new building and the land on which it stands to be subject to VAT two conditions need to be satisfied:

- The building is “new”: A building is considered “new” for VAT purposes until December 31 of the second year following the year in which it was first occupied or the year when possession of it was first taken; and 4
- The supplier is a qualifying “professional constructor” or a person who has opted for the application of VAT: A qualifying “professional constructor” is a person whose activity consists of regularly constructing or buying real property subject to VAT with a view to selling on this property (or grant immovable rights thereon). Any supply of a new building (and the land on which it stands) by this type of taxable person will automatically be subject to VAT.

If the supplier is not a qualifying professional constructor, then the default treatment is a VAT exemption, but the seller has the right to opt for the application of VAT to the transaction.

The application of VAT to a supply of immovable property is important since it entitles the seller to the recovery of input VAT, and if VAT is applied to the transfer, registration duties are waived. There is no link with the income tax treatment, which follows its own rules.

If the seller does not opt to charge VAT, then both building and land will be subject to registration tax.

For the sake of completeness it is reminded that the construction of immovable property does not constitute a supply of immovable property, but is considered as a supply of (construction) services which is in any case subject to VAT. Certain types of construction work are eligible for reduced rates of VAT, as is discussed in Section 7.2.

Leasing of Immovable Property

The leasing of immovable property is generally exempt from VAT, subject to several carve-outs, including the letting of parking spaces, furnished accommodation, camping sites, storage space, hotel accommodation, the hire of safes, and the provision of immovable property for the operation of ports, navigable waterways and airports.

Most importantly, VAT applies (and the supplier may be eligible for input VAT deductions) if the building is leased, subject to a number of conditions, from a company that specialises in financial leasing, i.e. long-term non-cancellable rental agreements. Under these conditions, the building must be used by the lessee for the purposes of an economic activity within the scope of the VAT Code, but not necessarily an economic activity that is subject to VAT, it must have been constructed or acquired (with application of VAT) by the lessor at the request of the lessee; the lease agreement should be irrevocable, should not imply an automatic transfer of ownership, but should instead allow for an option to purchase the property at the end of the agreement; and the periodic payments under the lease agreement must allow for an integral reconstitution (repayment) of the capital that had been invested in the property by the leasing company.

4.5. Other taxable transactions

For Belgian VAT purposes, transactions are characterised either as supplies of goods, or as supplies of services, and there are no other categories of taxable transactions.

4.6. Mixed transactions

The Belgian approach to mixed transactions (also referred to as composite supplies) is in line with the case law of the CJEU (see cases C349/96, CPP and C-41/04, Levob Verzekeringen). The Court ruled that where two or more elements or acts supplied by a taxable person to a typical consumer are so closely linked that they form an economically integrated transaction which it would be artificial to split, the associated elements or acts constitute a single supply for purposes of the application of VAT. The VAT treatment of the integrated supply is determined by its predominant element.

In addition, Article 63, Section 3 of the VAT Code provides that where a supplier conducts transactions that are subject to different rates of VAT, the supplies are presumed, unless proven otherwise, to be subject to VAT at the standard rate of 21 percent. The supplier can overturn this presumption by splitting up the price of the supply and applying a different VAT rate, or applicable exemption, to each separate supply.

4.7. Taxation of imports

4.7.1. In general

Since January 1, 1993, Belgium has only levied VAT on the importation of goods, at the point of importation from “third countries”, meaning territories located outside the EU. (Special territories of EU Member States, such as the British Overseas Territories, or Greenland are treated as third countries for import VAT purposes.) An importer of goods is generally liable for VAT regardless of whether the importer is otherwise required to register for VAT.

The acquisition of goods by a taxable person in Belgium from another EU Member State is not considered an “import”, but instead qualifies as an “intra-Community acquisition” which is subject to special rules discussed in Section 4.7.2.

4.7.2. Imports of goods

Under the Belgian VAT system, an import of goods is a taxable event. Generally, the importer is the party liable for the tax, and must pay import VAT, along with customs duty, on receipt of the goods. However, under certain circumstances, importers who are taxable persons and import goods on a regular basis can obtain an “ET 14000 licence” which allows the
importer to declare the import VAT under a “self-assessment” scheme on the due date for its periodic VAT returns.

Certain importations benefit from an exemption from import VAT, such as importations of goods that are immediately followed by an intra-Community supply.

An intra-Community acquisition by a person registered for VAT in Belgium, is subject to VAT. If a “distance sale” (as defined in Section 3.5) is made to a non-taxable person in Belgium by a supplier established in another EU jurisdiction, then the supply is generally subject to VAT in the home jurisdiction of the supplier, unless the distance sale rules discussed in Section 3.5 are met (e.g., annual turnover threshold of EUR35,000 is exceeded, or the supplier elects to be subject to Belgian VAT) in which case, the supply is subject to tax in Belgium.

Certain de minimis imports of goods by international travellers, goods sent between private individuals, and personal and household effects transferred in connection with establishing a residence in Belgium are also exempt.

4.7.3. Temporary imports or re-exported goods

Under the Belgian VAT system, there is no general VAT exemption for the temporary importation of goods. However, if upon importation, goods are placed under certain qualifying customs arrangements or customs procedures, the taxable event for VAT purposes will be suspended until the time the goods exit such suspensive regime to enter the Community (or more specifically, the Belgian market, if Belgian VAT is due) and come into free circulation. In other words, if goods remain under a qualifying customs arrangement or procedure until the time they are re-exported or assigned a new customs-approved treatment, then no import VAT will become due.

Two key suspensive arrangements are: (i) the temporary importation procedure with total relief of import duties; and (ii) suspensive inward processing relief.

Import VAT does not become due if the importer qualifies for the temporary importation procedure with total relief of import duties (no import VAT suspension is available for temporary importation with partial relief). This procedure allows the use of goods in the customs territory of the Community, with total relief from import duties of non-Community goods intended for re-export, provided the goods do not undergo any change except normal depreciation due to the use made of them. The customs authorities determine the period within which import goods must have been re-exported or assigned a new customs-approved treatment or use. In general, this period cannot exceed 24 months. Total relief can only be obtained for certain goods (e.g. goods imported for sports purposes such as balls, sportswear, score display equipment or blood and urine test apparatus, professional equipment such as cameras, television broadcasting equipment and advertising equipment, medical and surgical equipment, motor vehicles, personal possessions, exhibition goods, etc.).

VAT will also not become due with respect to the import of goods that can benefit from the suspensive inward processing relief. Under the inward-processing procedure, non-Community goods may be used in the customs territory of the EU in one or more processing operations without such goods being subject to any import duties, provided that these goods are destined to be re-exported after processing. Processing operations with respect to goods placed under the inward-processing arrangements can benefit from a general VAT exemption. Suppliers of the processing operations do not charge VAT for their services. The customs authorities specify the period within which the inward-processing procedure is to be discharged. Note that this exemption does not apply to goods subject to the “drawback system,” where duties are levied and remitted if the goods are re-exported.

The other suspensive arrangements are: external transit (allowing the movement from one point to another within the customs territory of the EU); customs warehousing; and processing under customs control (allowing non-Community goods to be used in the customs territory of the EU in operations which alter their nature or state, without their being subject to import duties or commercial policy measures, and shall allow the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them).

4.7.4. Imports of services

For Belgian VAT purposes, an import of services is not a concept recognised under the VAT Code.

If a service provider is located abroad, the rules concerning the place of supply of services discussed in Section 5.2, are relevant to determine whether Belgium imposes VAT. In principle, if the Belgian recipient is not a taxable person and the supplier of the service is established outside Belgium, then no Belgian VAT is due because the place of supply is the place where the supplier has established its business, in accordance with the business-to-consumer (“B2C”) rule. However, different rules may apply to certain types of services.

Services with respect to real estate are, for example, subject to VAT in the country where the real estate is located. Electronically supplied services (see Section 5.2) are subject to VAT in the country where the customer (non-taxable person) is established or where he has his permanent address or where he usually resides. Until January 1, 2015 this rule does not apply to electronically supplied services that are rendered by a taxable person who has established his business within the EU.

If the Belgian recipient is a taxable person for VAT purposes, then services supplied by a supplier who is located outside Belgium will normally be subject to Belgian VAT under the business-to-business (“B2B”) rule, subject to certain exceptions (e.g. services connected with real estate are always subject to VAT in the country where the real estate is located).

For more details, see Section 5.2 regarding the place of supply rules for services. For the purposes of the B2B rule, a “business” is a taxable person that will use the service to make taxable supplies.
5. Place of supply

5.1. Place of supply – goods

Place of supply rules are important because a supply of goods can only be subject to Belgian VAT if it has Belgium as its place of supply.

For Belgian VAT purposes, in general, the place of supply of goods is considered to be the place where the goods are located at the time when the supply takes place. When the goods are transported, then the place of supply will be the place where the goods are located at the time when dispatch or transport of the goods to the customer begins. There are, however, several exceptions to this general rule, depending on the nature of the goods (e.g. gas and electricity), the nature of the activities of the supplier (e.g. distance sales such as mail order sales), the type of supply (e.g. supply with assembly or installation of the goods), etc.

A specific rule applies to the supply of natural gas through a natural gas system situated within the territory of the EU or any network connected to such a system, the supply of electricity, or the supply of heat or cooling energy through heating or cooling networks. If such a supply is made to a taxable dealer, the place of supply is the place where that dealer has established his business (or, in the absence of such a place of business, the place where he has his permanent address or usually resides). If the supply is made to a party other than the taxable dealer (for example a private customer), the place of supply is deemed to be the place where the customer effectively uses and consumes the goods.

If the goods are being installed or assembled, the place of supply is the place where the goods are installed or assembled, if installation or assembly is done by the supplier.

As discussed above, distance sales are, generally, sales of goods to private individuals or customers established in another Member State who do not apply VAT to their intra-Community acquisitions of goods (for example, supplies by mail order companies to private consumers). The place of supply in a distance sale is generally the place where the goods are located when the dispatch or transportation ends, if the supplier’s annual sales (of non-exercise goods) are above the jurisdiction’s threshold (which is EUR35,000 for Belgium) or if the supplier has opted for this place of supply rule.

A distance seller may, indeed, elect to make the place of supply the place where the goods are located when the dispatch or transport ends. With respect to distance sales to Belgium, if such an election is made, or if the EUR35,000 threshold is exceeded, the foreign distance seller must register for and declare Belgian VAT.

In case a supply constitutes an intra-Community supply then the place of supply rule still refers to the place where the goods are located at the time when dispatch or transport of the goods to the customer begins. However, in such a case the supply itself will be exempt from VAT, in order to tax the corresponding intra-Community acquisition (for more details, see Section 5.5).

5.2. Place of supply – services

For Belgian VAT purposes, place of supply rules for services differ in the case of B2B and B2C transactions. In a B2B supply of services, the place of supply of the service is generally the place where the recipient has established its seat of economic activity. However, if services are rendered for a fixed establishment of a taxable person, the place of supply will be where the fixed establishment is located. In the case of a B2C supply of services, the place of supply of the service is generally the place where the supplier has its seat of economic activity. However, if services are rendered from a fixed establishment, the place of supply is the place where the fixed establishment of the supplier is located.

Particular provisions apply to specified services including services performed with respect to immovable property, transportation services, artistic performances, telecommunications services, and services that are electronically supplied.

The place of supply for services related to immovable property is the place where the property is located. Such services include construction, as well as the services of experts and estate agents. The place of supply for passenger transport is the place where the transport is carried out. Where a single journey spans multiple jurisdictions, the place of supply is determined on a pro rata basis, in proportion to the distances travelled in each jurisdiction.

The following EU rules apply to electronically supplied services (including software downloads) and telecommunications services:

- Electronically supplied services provided by suppliers established outside the EU on a B2C basis to customers established in Belgium are taxed at the place where the consumer resides or has a permanent address;
- Radio, television broadcasting and telecommunications services supplied by suppliers established outside the EU on a B2C basis taxable in Belgium if a private customer effectively uses and enjoys the service in Belgium;
- Radio, television broadcasting and telecommunications services, and electronically supplied services supplied by a Belgian supplier to a customer established in a non-EU country are not subject to Belgian VAT; and
- Electronically supplied services rendered to a private consumer that “belongs” (i.e. is resident or has a habitual abode) in the EU are generally subject to VAT at the place the consumer belongs if these services are rendered by a “third country business” (i.e. a business established in a jurisdiction outside of the EU). As of January 1, 2015, throughout the EU, all electronically supplied services, as well as telecommunications and broadcasting services supplied to private consumers are taxable at the place the consumer belongs, irrespective of the residency of the supplier (whether within or outside the EU). (See Section 13.3 regarding a simplified reporting regime for such services under the new MOSS regime.)
5.3. Place of supply – other transactions

The Belgian VAT system classifies transactions as supplies of either goods or services, and does not use other classification. Therefore, there are no place of supply rules applicable to transactions other than supplies of goods or services.

5.4. Place of supply – imports

Article 23 of the Belgian VAT Code stipulates that the place of importation of goods is the Member State within the territory of which the goods are located when they enter the EU. If that Member State is Belgium, the place of supply of the import is Belgium.

By way of derogation from the general rule, the place of supply is the Member State where goods cease to be covered by specific arrangements or other VAT suspension or deferral regimes from which they benefited upon their entry into the Community, as specified under the applicable VAT law. These include temporary importation arrangements providing a total exemption from customs duties, external transit arrangements, etc.

The transfer of goods within the EU is not referred to as an import, but rather, an intra-Community supply or acquisition, and the applicable place of supply rules are discussed in Section 5.5.

An import of services follows the rules set out in Section 5.2 (the B2C and B2B rules).

5.5. Special situations

For Belgian VAT purposes, an intra-Community acquisition of goods is, generally, the acquisition of the right to dispose – as owner – of movable tangible property dispatched or transported to the taxable person acquiring the goods by or on behalf of the vendor or the person acquiring the goods in a Member State other than that in which dispatch or transport of the goods began. The corresponding supply by the supplier constitutes an intra-Community supply which is exempt from VAT.

Such a supply can be described as the supply of goods by a business that is established in one EU Member State to a business in another, and which have been dispatched or transported from one territory of one Member State to another, as a result of the supply. A supply of a new means of transport from another Member State, etc. In these cases of "deemed" taxable transactions, there is a specific determination of the chargeable amount (often the purchase price, or, in the case of a self-supply of services, the cost of providing the services or the normal value thereof).

6. Chargeable amount

6.1. Valuation – generally

For purposes of calculating Belgian VAT, the value of a supply generally includes everything that constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply. For consideration that is totally or partly in-kind, the taxable amount will be the open market value of the goods or services received in return for the goods or services supplied (increased by any payments received for consideration).

Certain price reductions or discounts are excluded from the taxable base: if the price is EUR12, and the discount is EUR2, for VAT purposes, the price will be EUR10. The VAT itself is also not included. The costs of normal and usual packing material is also not included, if the packaging is returnable in return for a deposit. Late payment interest is also excluded from the taxable base.

6.2. Adjustments to stated sales price

Under the Belgian VAT Code, when the supplier and the recipient are related or connected, the chargeable amount must be adjusted to the “normal value” (i.e., the open market value) as defined in Article 32 of the VAT Code. The adjustment can be made if the following conditions are met:

■ The agreed-upon consideration is below what is considered to be the “normal value”;
■ The recipient does not have a right to full VAT input recovery; and
■ The parties are “related”, by virtue of an employment contract, as company partners, or as members of a company board, or if familial, economic, or legal connections exist.

The taxable person is required to make this adjustment for related party transactions on its VAT return or invoices.

In general, if a supply is not for consideration, no VAT will become due, except in a limited number of cases where legislation treats the transaction as a taxable transaction, for example, the private use of business assets for which the input VAT has been wholly recovered; the withdrawal of movable goods to supply them without remuneration; and the transfer of business assets to the taxable person’s establishment in another Member State, etc. In these cases of “deemed” taxable transactions, there is a specific determination of the chargeable amount (often the purchase price, or, in the case of a self-supply of services, the cost of providing the services or the normal value thereof).

6.3. Valuation of imports

For Belgian VAT purposes, if goods are imported (from outside the EU) the chargeable amount is based on the value for customs purposes, as determined in accordance with EU rules. Usually the customs duty is computed based on the transaction value of the imported goods.

The transaction value is defined by Article 29(1) of the Community Customs Code as the price actually paid or payable for the goods when sold for export to the customs territory of the Community. This price can be further adjusted where necessary. For more details see Appendix 15.5.

The chargeable amount for VAT purposes is equal to this customs value plus, if not already included, certain additional costs such as commission, packing, transport, and insurance costs incurred up to the goods’ first destination in Belgium, as well as all other charges, taxes, and duties payable upon importation (e.g., excise duties) other than VAT itself.

The chargeable amount of intra-Community acquisitions, or an importation of services is determined as
explained under Sections 6.1 and 6.2. Total consideration, for this purpose, includes all taxes, commissions and charges other than VAT.

6.4. Co-ordination of VAT, customs and income tax pricing

Under the Belgian VAT Code, customs value, determined in accordance with EU customs rules, is the starting point for calculating value for VAT purposes in the case of imports from outside the EU.

The adjustments to customs value made for VAT purposes are also discussed in Section 6.3.

6.5. Non-functional currency transactions

For Belgian VAT purposes, when the value of imported goods is expressed in foreign currency, the amount must be converted into Euros using the predetermined fixed monthly rates issued by the Belgian customs authorities. These rates are fixed in accordance with EU rules.

7. Tax rates

7.1. Standard rate

The standard Belgian VAT rate is 21 percent. It is applicable to all supplies of goods and services, unless they qualify for a reduced rate or exemption from VAT.

7.2. Reduced and supplementary rates

Belgian VAT legislation imposes two reduced rates, one at 6 percent and the other at 12 percent. They both apply to a limited number of transactions that are specifically enumerated in the VAT Code and in Royal Decree 20, dated July 20, 1970 (Tables A and B respectively).

Categories subject to the reduced rate of 6 percent include the following non-exhaustive lists, among other things, and are subject to certain detailed conditions.

Supplies of goods:

- Unprocessed food such as live animals acquired for slaughter, meat, fish, dairy product, vegetables and fruit, vegetable products, etc.;
- Water supplied by means of the water distribution system;
- Supplies of electricity to physical persons purchasing electricity for their own household use, and not for commercial or professional activities. (This reduced rate is scheduled to expire at the end of 2015);
- Pharmaceutical products and medical aids;
- Newspapers, magazines, and books;
- Works of art;
- Automobiles for disabled persons;
- Certain supplies of goods by institutions with public purposes; and
- Social housing meeting certain requirements.

Supplies of services:

- Agricultural services;
- Transportation of persons, non-registered baggage and animals accompanying the travelers;
- Admission to cultural, sport, or entertainment events and institutions;
- Rental of furnished lodgings with or without breakfast;
- Certain services in relation to copyrights, concerts, and performances;
- Work on immovable property destined for residential use (including residences for the elderly, boarding schools, etc.) that has been occupied for at least five years;
- Undertaker services; and
- Services supplied by certain social institutions.

Categories subject to the reduced rate of 12 percent as outlined in Royal Decree 20, Table B include the following, among others:

- Pharmaceutical products recognised by the Ministry of Agriculture;
- Social housing not eligible for the 6 percent rate;
- Work on specified immovable property; and
- Restaurant and catering services, drinks excluded.

7.3. Exempt supplies or equivalent

Under the Belgian VAT Code, certain supplies of goods and services are ‘exempt supplies’ meaning that no VAT is payable upon their supply. There are two categories of exemptions: (i) exemptions that do not affect the right to input VAT deduction, these could also be referred to as zero-rated supplies (see Section 7.4); and (ii) exemptions as a result of which the supplier will lose the right to claim an input VAT deduction for VAT expense incurred in relation to an exempt supply (which differs, in this regard, from a zero-rated supply).

Exempt transactions, which result in a loss of the right to deduct input VAT, are listed in Article 44 of the VAT Code, and include the following, among others:

- Services rendered by medical professionals;
- The supply of education by recognised institutions;
- The rental of books and magazines, musical scores, LPs, CDs, MCs, slides, and other materials of cultural interest by libraries, provided they the libraries have no profit motive and use the earnings only to cover their running costs;
- The sale of buildings (and the underlying ground) unless: (i) the supply occurs before the end of the second year following the year of the building’s first occupancy or use; and (ii) the supplier regularly sells buildings before the end of such term, or the supplier has expressly opted for the application of VAT on the supply of the building (see Section 4.4);
- The leasing and letting of immovable property and the transfer of letting rights on immovable goods (except certain specific situations, such as certain financial leasing agreements);
- Insurance and reinsurance transactions;
- Specified financial services, including the grant and negotiation of credit, and the management of credit by the lenders; and
- Betting, lotteries, and other forms of gambling as defined by Royal Decree.

More information about exempt supplies is provided in Appendix 15.1.
7.4. Zero-rated supplies or equivalent

Articles 39 through 42 of the Belgian VAT Code deal with VAT-exempt supplies that do not affect the taxable person's right to input VAT deduction. In other jurisdictions these types of VAT-exempt transactions are usually referred to as “zero-rated” transactions, meaning that, while no VAT becomes payable on them, such transactions are nevertheless subject to VAT albeit at the rate of zero percent.

This then justifies why the taxable person making a so-called zero-rated supply is still entitled to input VAT deduction (the right to deduction is in most cases conditional upon the supply of goods or services that are subject to VAT, as discussed in Section 8).

Zero-rated supplies include exports, intra-Community supplies, and supplies related to international transport (such as the fuelling and provisioning of seagoing ships).

The main items qualifying for zero-rating are:
- Intra-Community supplies, if the acquiring party is a taxable person liable to pay VAT on the corresponding intra-Community acquisition of such goods;
- International transportation of passengers by air or over sea;
- Exportation of goods outside the EU;
- Certain specific supplies of goods or services such as supplies to international bodies, and gold to central banks and the supply of pearls and precious stones to dealers; and
- Daily newspapers and periodical publications with a general informative content that meet certain conditions.

In addition, a zero-rating applies to certain travel agency services rendered to Belgian customers in connection with travel outside of the EU.

7.5. Imports

7.5.1. Reliefs from import VAT

For Belgian VAT purposes, goods, the supply of which would also be exempt if domestically supplied (see Section 7.3 and 7.4), are relieved from import VAT (or from the VAT on intra-Community acquisitions as the case may be). This rule applies to exempt and zero-rated supplies.

In a limited number of cases, an import VAT exemption (or an exemption for intra-Community acquisitions) is also granted based upon European regulations, such as the exemptions for imported goods belonging to a person who is relocating to Belgium from a different country, imported goods belonging to an inherited estate, goods imported by charitable organisations, goods imported for research, and others. However, these exemptions are subject to strict conditions.

The intra-Community acquisition of goods destined to be the subject of a subsequent exempt intra-Community supply of goods also benefits from a VAT exemption.

7.5.2. Bonded warehouses, free zones, etc.

Under the Belgian VAT system, a bonded warehouse is generally a sealed storage area where imported goods are stored under customs supervision. The import of goods destined for bonded warehouses are exempt from VAT. If the goods subsequently exit the bonded warehouse to leave the EU, then they are considered never to have been imported into the EU so that no VAT becomes due. However, when the goods leave the bonded warehouse to enter free circulation in Belgium, then VAT becomes payable. Belgium has no general free zones.

7.6. Exemptions for exports

For Belgian VAT purposes, exports of goods outside the EU are zero-rated. This enables the supplier to recover input VAT on any goods or services received in the context of the export.

Intra-Community supplies of goods (i.e. a supply whereby goods are dispatched or transported to the person acquiring the goods, by or on behalf of the vendor or the person acquiring the goods, in a Member State other than that in which dispatch or transport of the goods began) are generally zero-rated if the acquiring party is a taxable person liable to pay VAT on the corresponding intra-Community acquisition of such goods.

8. Deduction and recovery of input tax

8.1. Input tax eligible for a deduction/credit

Under Article 45 of the Belgian VAT Code, a taxable person has the right to deduct from the VAT that it is liable to pay to the VAT Administration the “input VAT” incurred on the purchase, importation, or intra-Community acquisition of goods or on services received. VAT may be deducted as input VAT to the extent that it is incurred with respect to goods or services that are used for the purposes of the taxed transactions of the taxable person. For purposes of the input VAT deduction, zero-rated transactions are treated as taxable transactions. Input VAT is also recoverable to the extent that goods or services received are used for the purposes of transactions carried out outside Belgium, but in respect of which input VAT would be deductible had they been carried out within Belgium.

Input VAT on goods or services used for the supply of tax-exempt goods or services is not deductible unless the supply falls within the exemption for financial transactions (such as the granting of credit) and the customer is established outside the EU.

If goods or services are used both for business and private purposes, the input VAT deduction will be available only for the part used for business purposes, as is discussed in greater detail in Section 8.2.

Transactions submitted for input VAT recovery must be adequately documented. For example, invoices issued by the vendor in conformity with VAT legislation should be kept.

A taxable person whose deductible input VAT exceeds its output VAT is generally entitled to a refund of the excess of deductible input VAT, under the rules discussed in Section 8.5.

The input VAT on the following types of supplies, imports, or intra-Community acquisitions of goods or services is not eligible for deduction (subject to certain narrow carve-outs):
- Supplies of tobacco and alcoholic beverages not intended for resale;
Reception-related costs for “public relations”; and
• Accommodation, food and beverages for immediate consumption served in restaurants or by a caterer.

The deduction of input VAT on the acquisition of automobiles or on expenses related thereto is generally limited to 50 percent, subject to certain exceptions, including passenger vehicles with more than eight passenger seats, and vehicles specially fitted out to transport the sick, wounded, or deceased. This limit applies even if the private use of an automobile does not exceed 50 percent.

8.2. Deduction rules for mixed transactions

For Belgian VAT purposes, a mixed taxable person is a person who makes both taxable and exempt supplies, such as a bank. Article 46 of the VAT Code provides two different methods for determining the recoverable amount in mixed transactions: general pro rata apportionment and direct attribution.

The general pro rata method is the default method to be used by taxpayers. Under this method, the deduction is calculated in proportion to the significance of the activity in respect of which VAT is deductible (i.e. taxed transactions, zero-rated transactions, etc.). The following ratio must be applied to obtain the input VAT recoverable:

\[
\frac{\text{Turnover for the year realised on transactions in respect of which VAT is deductible}}{\text{Turnover for the year of all transactions}}
\]

Certain factors are excluded from both the numerator and the denominator; such as the sale of capital goods used in the enterprise, the sale or rental of real estate (except for real estate companies). The taxpayer must initially fix the proportion provisionally based on turnover for the preceding year, and then determine a final proportion for the year by April 20 of the subsequent year, and adjust the VAT deduction accordingly.

The purpose of the pro rata method is to determine the deductible part of VAT according to the turnover of the different activities carried out. For example, if the aggregate turnover of the taxable and exempt activities is 2000 and the turnover of the taxable activity is 200, the ratio is 200/2000 = 10%. Then, 10 percent of the input VAT will be recoverable regardless of the activity for which the goods or services are destined.

The general pro rata apportionment can sometimes result in an unfair advantage for either the taxable person or the VAT administration. If this occurs, the taxable person can request permission from the tax authorities to use the direct attribution method or, conversely, the VAT Administration may impose the use of such method (the method then becomes mandatory). Under this method, a taxable person must allocate the expenses made directly to the corresponding output transactions. The input VAT is deductible for goods or services directly attributable to the taxable person’s activities in respect of which VAT is deductible. There is no input VAT deduction for goods or services used for tax-exempt activities. Input VAT on goods or services that are not directly attributable to either of the above categories is deducted on a pro rata basis, in accordance with parameters determined in consultation with the Tax Administration.

8.3. Timing of the deduction or credit

In Belgium, the right to VAT recovery arises when VAT becomes due on the goods or services received (i.e. at the point when the supply occurs). In practice, input VAT is recovered through the periodic VAT return.

The rule that VAT recovery arises when VAT becomes due is subject to an exception in certain cases where advance invoices are issued. Under conditions addressed in Sections 4.1 and 4.2 the VAT on such invoices will be immediately deductible, even if the real tax point has not yet taken place. However, if at the end of the third month following the month in which the advance invoice was issued, the real tax point has not yet taken place, the customer will have to correct the initial input VAT deduction (and can then reclaim the deduction if the tax point eventually takes place).

If the taxable person fails to claim the VAT deduction in the return related to the period in which the right to deduct input arose, it can still do so in the returns to follow, for up to three years.

8.4. Deductions for input tax on capital goods or assets

For Belgian VAT purposes, capital goods are defined as tangible property, certain rights in rem in immovable property and services which have characteristics similar to those normally attributed to capital goods (e.g. patents or other intangible assets that can be amortised), in each case, with a value of at least EUR1000 (effective January 1, 2014).

For Belgian VAT purposes, recovery of input VAT on capital goods is not subject to any additional condition, and input VAT may therefore be recovered in accordance with the rules, including rules on mixed supplies and timing, outlined in Sections 8.1–8.2. Capital goods should, however, continue to be used on a durable basis within the business, to the extent that the deduction is initially claimed in accordance with the rules on mixed supplies. If capital goods are used in greater proportion than initially claimed, for other purposes than the initial taxable purpose, recovery of input VAT must be adjusted (meaning that input VAT deducted will have to be repaid, in part or in full). Conversely, if capital goods are used to a greater proportion for taxable purposes than initially anticipated, then the initial input VAT deduction can be adjusted in favour of the taxable person.

As a rule, for immovable property the period within which an adjustment may occur runs for 15 years from January 1 of the year in which the immovable property was used for the first time. For other capital goods, this period is limited to five years, running from January 1 of the year in which the supply of the capital goods has taken place. These rules also apply to input deductions for services relating to the transformation or improvement of capital goods.

Specific causes for adjustments are listed in Royal Decree No. 3 of December 10, 1969. These include the finding that the goods are now used for private or other than professional purposes or that a full deduction was granted where it is subsequently established
that the taxable person has become a mixed taxable person.

8.5. Refunds to registered persons

8.5.1. Resident taxable persons

In Belgium, refunds are processed through the periodic VAT return. If the VAT balance shows a credit for the taxable person, meaning that the amount of input VAT paid for a given period was greater than output VAT liability for that period, VAT will be refunded. The modalities (and especially the timing) of the actual refund differ, depending on certain circumstances (e.g. the amount to be refunded). Under certain conditions, taxable persons who are likely to be (almost) continuously in a credit position can obtain a permit to obtain refunds on a monthly basis.

If input VAT was not recovered through the periodic VAT return related to the period in which the right to deduct input VAT has arisen, the deduction can still be exercised in a periodic VAT return connected to the following period, as long as it is submitted before the end of the third calendar year following the year in which the to be deducted VAT has become payable.

These provisions apply to all VAT transactions.

8.5.2. Customs union members or other special arrangements

Under the Belgian VAT system, a taxable person established in another EU Member State can apply for recovery of incurred Belgian VAT. If the claimant is registered for VAT in Belgium, it must follow the same refund procedure as a Belgium-based taxable person. A different procedure is available to a claimant established in the EU who is not registered for VAT in Belgium and has not made supplies in Belgium in respect of which it would have been liable for payment of Belgian output VAT. A claimant meeting these requirements can apply for a refund through a web application on the website of the VAT authorities of its Member State of establishment.

8.5.3. Foreign taxable persons

If a foreign business is registered in Belgium for VAT purposes, the general domestic rules discussed in Section 8.5.1 are applicable.

8.6. Refunds to non-registered persons (domestic and foreign)

As a rule, no Belgian person can obtain a VAT refund unless it is registered as a taxable person. In certain narrow circumstances, however, an input VAT refund may be obtained subject to the use of ad hoc procedures, for example, in the case of a non-taxable person selling a new building, supplying a new means of transportation, or exporting certain goods.

Persons established (and registered for VAT) in another EU Member State and not registered for VAT purposes in Belgium can apply for refunds through an online application on the website of the VAT authorities of its Member State of establishment. This requires that during the refund period, the taxable person has not had in Belgium the seat of its economic activity or a fixed establishment from which business transactions were effected or, if no such seat or fixed establishment existed, its domicile or normal place of residence. In addition, during the refund period, it may not have supplied any goods or services that can be localised in Belgium.

Persons established outside of the EU and not registered in Belgium may request recovery of input VAT incurred in Belgium, subject to the following conditions: (i) they must submit a certificate of status issued by the VAT authority (or its equivalent) of their home country; and (ii) they must also demonstrate that they have carried out transactions that would have triggered VAT had they been supplied in Belgium. The refund application must be submitted with the Central VAT office for foreign taxable persons.

9. Extension or shifting of VAT liability

9.1. “Reverse charge” and similar provisions

For Belgian VAT purposes, under the “reverse charge” mechanism, the recipient of goods or services must account for VAT. This mechanism applies to any supply of services that falls under the B2B rule if the supplier is established outside of Belgium. With the exception of certain carve-outs, the reverse charge mechanism more generally applies where the supplier is established outside Belgium and the recipient is registered for VAT purposes in Belgium and is either a Belgium-established person required to file periodic VAT returns or not established in Belgium, but has appointed a Belgian VAT representative.

The reverse charge mechanism is only applicable to supplies of goods or services that are considered to take place in Belgium for VAT purposes. Exempt transactions can never result in the application of the reverse charge mechanism.

Under specific circumstances the reverse charge mechanism can also apply to purely domestic supplies of services. This is the case for works on immovable property or the supply of CO2 emission allowances, in both cases to a Belgium-established person required to file periodic VAT returns or a taxable person not established in Belgium, but who has appointed a Belgian VAT representative.

9.2. Other mechanics applicable to supplies by non-residents (e.g. VAT representatives or agencies, subrogation, etc.)

Under the Belgian VAT system, in general, foreign businesses must register for VAT when providing supplies of goods and services that have Belgium as their place of supply, under the rules outlined in Section 5 to which the reverse charge mechanism cannot be applied (e.g. when the recipient is not a taxable person). However, to simplify administrative proceedings, a taxable person established in another EU Member State can appoint a VAT representative or, in certain cases, rely on a “limited fiscal representative” (i.e. a previously recognised person allowed to represent multiple foreign taxable persons under one single VAT identification number). For a taxable person established outside the EU, appointing a VAT representative is mandatory.

The representative is subject to all VAT regulations and formalities imposed by the Belgian VAT Code and is jointly liable to satisfy all VAT payments of its prin-
10. Administrative matters

10.1. Registration and VAT number

Belgian VAT registration is done by filing “Form 604 A” for “registration for VAT identification at the onset of an activity” with the VAT office responsible for the district where the registrant is established. Filing can be done in person or by postal mail. There is no online application. The registrant can, however, appoint a proxy or have a so-called Enterprise Counter handle the formalities.

In most cases an enterprise will receive an enterprise number by the Enterprise Counter quite swiftly after which the VAT authorities will confirm that this same number is also activated as a VAT number. Sometimes numbers are obtained quite easily, but for instance when the enterprise deals in goods that could easily be used in fraud schemes, the issuing of a VAT number may take more time.

10.2. Invoices

10.2.1. Invoicing requirement

For Belgian VAT purposes, in general, a taxable person is required to issue an invoice for every supply of goods and services to taxable persons and non-taxable legal entities, and in some cases to non-taxable individuals, as discussed below. Failure to issue an invoice or omission of compulsory elements may lead to a fine of up to double the VAT owed.

Exempt supplies (other than those that are zero-rated) do not have to be invoiced. Invoices do not have to be issued when supplies are made to private individuals, except in a limited number of instances specifically mentioned in Royal Decree 1 of December 29, 1992. These include distance sales, supplies of vehicles, supplies of buildings and rights in immovable property, and supplies by wholesale companies.

The invoices must be issued at the latest on the 15th day of the month following the month in which the VAT became due on the price or on a part of the price. (See Section 10.3.3.)

10.2.2. Form and information

In Belgium, Royal Decree 1 of December 29, 1992 prescribes that the following elements must be provided on the invoice:

- The date of issuance and the date of the taxable transaction;
- Sequential number;
- The name, address, and the Belgian VAT registration number of the supplier;
- The name, address, and the Belgian VAT registration number of the customer;
- Description of the transaction including the description and the quantity of the goods or description and object of the services;
- Taxable amount and price of unit;
- VAT rate and taxable base; and
- Where applicable, reference to the VAT Code provision by virtue of which the transaction is exempt or zero-rated or reference to the reverse charge mechanism.

There is no standard invoice form, but it is mandatory that the invoice contain all the elements set forth above.

Invoices may be issued electronically, subject to prior agreement between the parties. The taxpayer is also responsible to ensure that it has implemented sufficient controls to guarantee the authenticity of the origin and the integrity of the data flow.

10.3. Returns

10.3.1. Timing

For Belgian VAT purposes, under the general rule, taxable persons are required to file monthly VAT returns. Taxable persons with a realised annual turnover in Belgium of less than EUR2.5 million can, however, file VAT returns on a quarterly basis. That threshold is lowered to EUR250,000 if the taxable person supplies mineral oils, certain energy products, mobile telephones, computers, as well as computer accessories and components, and land vehicles. The
quarterly filing of VAT returns is not available to taxable persons that are obliged to submit European supplies listings on a monthly basis. In addition, if intra-Community supplies of goods exceed a value of EUR400,000, annually, a VAT return must be filed on a monthly basis.

Returns are due on the 20th of the month following the end of the quarterly or monthly tax period, as applicable.

10.3.2. Electronic filing

For Belgian VAT purposes, electronic filing is mandatory for most taxpayers. Taxable persons can file online using an application called “INTERVAT” (www.minfin.fgov.be under e-services), which is made available on the website of the Belgian tax authorities. Paper filing is only available to taxable persons who are not technologically equipped to file online.

10.3.3. Timing of payment or deposits

Under the Belgian VAT system, the balance of VAT due (i.e. the difference between input and output VAT) must generally be paid on the date when the VAT return is due (i.e. the 20th of the month following the end of the taxable period, whether monthly or quarterly, in accordance with the rules outlined in Section 10.3.1).

In addition, the following advance payments are required: first, taxpayers who file VAT returns on a quarterly basis must file two monthly advance payments on the 20th of the 2nd and 3rd month of each quarter, in an amount equal to a third of the VAT that was due in the preceding quarter. Second, taxpayers who file on a monthly basis must make an advance payment once a year on the VAT due for the month of December. This advance payment, to be paid at the latest on December 24, in an amount equal to either the same amount as was due for the month of November, or the net amount of VAT due for the period from December 1 to 20.

Usually the amount is placed on a current account with the authorities, the balance of which can be refunded (in principle after a refund request in the VAT return – timing of the refund depends on the circumstances).

10.3.4. Methods of payment or deposit

For Belgian VAT purposes, VAT due must be paid into the bank account of the Belgian VAT collection agency using one of the following:
- Deposit at the post office;
- Postal transfer;
- Bank transfer through a bank or an authorised financial institution established in Belgium; or
- Electronic payment with an identifying reference.

10.3.5. Recordkeeping

In Belgium, all VAT taxable persons must keep VAT accounts and records in accordance with the rules set forth in Article 14 of Royal Decree 1 (December 29, 1992). The following records must be retained:
- A register of outgoing invoices, including all information required under the Decree;
- A register of incoming invoices, including all information required under the Decree;
- A journal of cash receipts (with respect to transactions for which the taxable person is exempt from issuing sales invoices);
- Original purchase invoices, copies of sales invoices, contracts, debit notes, settlement vouchers and other documents to substantiate the entries in the register; and
- In case of import VAT, original electronic or hard copies of the “Single Administrative Document” used for documenting imports and exports. All records must be kept for a period of seven years. Records in relation to the acquisition or construction of immovable goods qualifying as capital goods in respect of which VAT has been deducted, should be kept for 15 years.

Invoices can be kept in electronic form provided that the requirements set forth by the tax authority are met, including that the authenticity of the origin, the integrity of the contents, and the legibility of the documents are ensured for the entire mandatory seven-year record keeping period. Books may also be kept in electronic form, provided the analytical data is retained for seven years.

Electronic import and export declarations submitted via the “Paperless Customs and Excise” system may be stored either in digital form or on paper.

10.3.6. Other matters

Belgian taxable persons are required to submit periodic European Sales Listings (BTW-opgave van de intracommunautaire handelingen/Relevé à la TVA des opérations intracommunautaires) providing details of each of their customers who are resident and registered for VAT in an EU jurisdiction outside of Belgium. The list must include the aggregate value, in Euros, of the supplies made to each in the applicable taxable period. The EC Sales List must be filed monthly via INTERVAT, but filing can be done quarterly for taxable persons filing a quarterly VAT return under the rules set forth in Section 10.3.1, provided that intra-Community supplies of goods do not exceed EUR50,000 in the applicable quarter or any of the four preceding quarters. The filing is due on the same date as the VAT return (i.e. the 20th day of the month following the applicable month or quarter).

Taxable persons are also required to file an annual supplies listing all Belgian customers that are registered for VAT in Belgium. This listing must provide the name and VAT number of the clients, the total turnover per client for the year, and the total amount of VAT imposed. This filing should be made through INTERVAT by March 30 of the year following the calendar year with respect to which the filing is made.

10.4. Appointment of tax representative

For Belgian VAT purposes, a taxable person established in a third country, outside the EU, is obligated to appoint a tax representative.

See Section 9.2 for additional information.

10.5. Audits, e-audits

In Belgium, a detailed procedure must be followed in order to allow the tax authorities to assess the taxes due and investigate the taxable person’s returns. The taxable persons are obliged to co-operate and answer...
requests for information, present accounts and supporting documents, etc. The tax authorities do not have to wait for a specific event to occur in order to be allowed to carry on an audit.

10.6. Appeals of assessments

In Belgium, if tax authorities conclude that a VAT payer has infringed VAT law, it must issue to the VAT payer an official report and the proposed additional VAT levy. Once a taxable person has been informed about the assessment, the grounds it is founded on, and the amount of VAT to be paid, it usually has one month to provide the tax authorities with comments. However, the VAT Code does not lay down a formal administrative appeal procedure. In general, the Federal Public Services Finance is empowered to settle disputes with a VAT procedure, and the VAT Code also provides for the possibility of tax mediation in the case of an ongoing dispute. The taxable person can directly file an appeal with the courts.

10.7. Administrative rulings

In Belgium, the taxable person can obtain a binding advance tax ruling from the “service of preceding decisions in tax matters” (i.e. ruling commission (Dienst voorafgaande beslissingen in fiscale zaken/Service des Décisions Anticipées en matière fiscale)).

Submitting a ruling request is free of charge.

To obtain a ruling, the taxable person must not yet have carried out the transaction, and must present all facts are presented to the ruling commission. The tax authorities will be bound by the advance tax ruling for a period of five years. Excerpts of the ruling may be published on a no-names-basis. In any event other taxable persons cannot rely on such published excerpts (or on decisions rendered to third parties).

10.8. Cross-border assistance and cooperation

Belgium is committed to European Directives regulating the exchange of information and mutual assistance in collecting taxes across the EU.

In addition, Belgium participates in a pilot project by the EU on advance rulings for VAT in a cross-border transactions involving EU Member States. Requests for cross-border rulings may be submitted to the Federal Public Service Finance.

11. Interest and penalties

11.1. Interest (on underpayments)

Under Belgian law, if VAT is not paid on time, the taxable person will incur an interest fixed at a rate of 0.8 percent per month (or 9.6 percent per year).

11.2. Penalties

In Belgium, several penalties can be imposed if the taxable person fails to meet one or more of its tax obligations. There are two categories of penalties: non-proportional penalties per violation (e.g. non-timely filing of a VAT return) or fines that are proportional to the amount of VAT due (in principle 200 percent of the evaded or unpaid VAT).

For example, the non-proportional penalty for non-submission of a VAT return is equal to EUR500. Royal Decrees 41 (of January 30, 1987) and 44 (of October 21, 1993) impose reduced penalties if the violations of the VAT Code were not committed with fraudulent intent. These Royal Decrees contain the applicable penalty scales in which the severity of the penalty varies, depending on the type of infraction, on the amount of VAT involved, the frequency of the infraction, etc.

12. Statute of limitations

In Belgium, the VAT Administration can assess the tax up to three years after the end of the year in which the taxable transaction took place. This period can be extended to seven years for fraud or if within this seven-year period the tax authorities have obtained further information that a certain amount of VAT has not been reported in a VAT return or has been unlawfully recovered.

13. Special regimes or arrangements

13.1. Sale of a going concern

For purposes of Belgian VAT, in general, the sale of business as a going concern to another taxable person (or a person that will become a taxable person as a result of the continuation of the going concern) qualifies neither as a supply of services nor as a supply of goods. The transaction is thus outside the scope of VAT legislation. The person to whom the goods are transferred is to be treated as the successor to the transferor.

13.2. Bad debt relief

For purposes of Belgian VAT, a taxable person is entitled to recover VAT that has already been paid to the authorities in respect of bad debts. This is so, for instance, if the debt is lost as a result of a bankruptcy or reconstitution of the customer; or also when the supplier can demonstrate that the invoice has not been paid or has not been paid partly or when the recovery of the claim has become sufficiently uncertain.

13.3. Other special regimes

Flat Rate Schemes

This is the only simplified method of calculating tax liability applicable to small businesses. This consists in general of taxing annual turnover on a flat rate basis (i.e. on the basis of the amount of purchases, increased by profit margins established by means of coefficients determined in advance by the authorities after consulting the professional associations concerned). The taxable person under this scheme may not deduct the input VAT incurred on expenses incurred, subject to certain exceptions. Only taxable persons meeting strict requirements can qualify for the flat rate scheme: they must be individuals or partnerships (excluding co-operatives) with an annual turnover of not more than EUR750,000, making supplies of goods or services essential to individuals to whom no invoices have to be issued. The flat rate scheme is optional.
The flat-rate scheme currently applies to, among others, butchers, bakeries, hairdressers, pharmacists and shoe retailers.

Small Enterprises

Small enterprises with an annual turnover below EUR5580 (or EUR15,000 as from April 1, 2014) are not required to charge VAT on the supplies they make. Subsequently, they will not be able to recover input VAT. However, certain transactions are excluded from the regime, such as the professional selling of new buildings and new vehicles, work on immovable property and supplies by non-Belgian taxable persons.

Margin Schemes

For the sale of second-hand goods, art objects, or antiques, the taxable base is calculated based on the profit margin of the seller. However, the margin scheme is subject to additional formalities in order to determine the applicable margin objectively. Professional second-hand car resellers may benefit from the same regime on condition that they have acquired their cars from private individuals, small enterprises with a turnover below EUR5580 (or EUR15,000 as from April 1, 2014), or other professional second-hand car resellers.

Electronically Supplied Services Regime

Suppliers of electronic services without a fixed establishment in the EU must charge VAT on a supply to a non-taxable resident of a Member State in the Member State where that resident “belongs” i.e. generally, has a habitual place of residence. To simplify the registration process, such suppliers may register in one Member State of their choice. The supplier must then submit to that Member State an electronic declaration of electronic services every quarter within 20 days after the end of the quarter with a summary of the VAT payable to each Member State and the applicable VAT rates, and must remit this amount, in full to the tax authorities of the Member State of Registration. The Member State of registration then distributes the remittances in accordance with the summary submitted by the supplier. Suppliers must apply for refunds directly to the Member States in which the VAT was levied.

Mini One Stop Shop Scheme (as of January 1, 2015)

As of January 1, 2015, the electronically supplied services regime described above will be incorporated into the MOSS. The MOSS is a scheme which will allow all taxable persons supplying telecommunications services, broadcasting services and electronically supplied services to non-taxable persons in Member States in which they do not have an establishment to account for the VAT due on those supplies via a web portal in the Member State in which they are identified.

The scheme is optional, and is a simplification measure following the change to the VAT place of supply rules with respect to cross-border services rendered within the EU, i.e. that from January 1, 2015 onwards, the supply of these services generally takes place in the Member State of the customer, and not the Member State of the supplier (as discussed in Section 5.2). The MOSS allows qualifying taxable persons to avoid registering in each Member State of consumption. The MOSS will be available to taxable persons who are established in the EU (the Union scheme), and to taxable persons who are not established within the EU (the non-Union scheme). An EU business must register and use the Union VAT MOSS in the Member State of its business establishment (generally, its principal place of business or head office). A non-EU business with a fixed establishment in the EU can register for the Union VAT MOSS in any Member State in which it has a fixed establishment. A non-EU business with no fixed establishments in the EU can register for the non-Union VAT MOSS online in any Member State of its choice.

The MOSS mirrors the scheme discussed above that is in place until 2015 for supplies of electronically supplied services to non-taxable persons by suppliers not established in the EU. Persons already registered under the pre-existing scheme for electronically supplied services retain their existing individual VAT identification numbers for purposes of the non-Union scheme.

In practice, under the MOSS scheme, a taxable person who is registered for the MOSS in the Member State of identification submits quarterly electronic MOSS VAT returns detailing supplies of telecommunications, broadcasting and electronically supplied services to non-taxable persons in the other Member State(s) of consumption, along with the VAT due. These returns, along with the VAT paid, are then transmitted by the Member State of identification to the corresponding Member States of consumption via a secure communications network.

Suppliers may register for the new MOSS as of October 1, 2014. If a supplier registers for the MOSS from October 1, 2014 to December 31, 2014, the registration will come into effect from January 1, 2015. Otherwise, the registration will generally take effect from the first day of the calendar quarter following that in which the supplier informs the Member State that it wishes to start using the scheme, although there are exceptions to this rule.

The Belgian Finance authority provides further information about the MOSS online in Dutch (http://financien.belgium.be/nl/ondernemingen/international/btw-elektronische-diensten-telecommunicatiediensten-en-radio-en-televisie-omroepdiensten) and in French (http://finances.belgium.be/fr/entreprises/international/tva-services-electroniques-services-de-telecommunications-et-services-de-radiodiffusion-et-de-television).

14. State, provincial, or local indirect taxes

14.1. General information

The Belgian VAT Code is applicable to the entire territory of Belgium. There are no separate state, provincial or local indirect taxes.

14.2. Registration

There are no state, provincial or local indirect taxes in Belgium; and therefore no state, provincial or local registration rules.

14.3. Place of supply (or equivalent)

There are no state, provincial or local indirect taxes in Belgium; and therefore no place of supply rules at the state, provincial or local level.

14.4. Valuation of supply

There are no state, provincial or local indirect taxes in Belgium; and therefore no provincial or local rules on valuing supplies.

14.5. Tax rates

There are no state, provincial or local indirect taxes in Belgium; and therefore no applicable state, provincial or local rates of indirect tax.

14.6. Recovery of input tax

There are no state, provincial or local indirect taxes in Belgium; and therefore no rules for recovery of state, provincial or local indirect taxes.

14.7. Timing for filing and payment of VAT

There are no state, provincial or local indirect taxes in Belgium; and therefore no timing rules related to such taxes.

15. Appendices

15.1. Exempt and zero-rated goods; goods subject to reduced or enhanced rates

The Belgian Ministry of Finance website provides a listing of supplies that are exempt from Belgian VAT without right to deduction, zero-rated and subject to VAT at a reduced rate.

The following are relevant forms for VAT in Belgium:
- Registration form (Form 604 A)
- Deregistration form (Form 604 C)
- Change of identification data (Form 604 B)
- Annual client listing (Form 725)
- Return for intra-Community transactions (Form 723)
- Refund application form
- Request to form a VAT group (Form 606 A)

15.2. Key websites

The following official websites provide guidance about VAT in Belgium:
- Ministry of Finance ([http://www.minfin.fgov.be](http://www.minfin.fgov.be))
- VIES (VAT Information Exchange System) ([http://ec.europa.eu/taxation_customs/vies/?locale=en](http://ec.europa.eu/taxation_customs/vies/?locale=en))

15.3. Relevant forms

The following are relevant forms for VAT in Belgium:
- Registration form (Form 604 A)
- Deregistration form (Form 604 C)
- Change of identification data (Form 604 B)
- Periodic VAT Return (Form 625)
- Annual client listing (Form 725)
- Return for intra-Community transactions (Form 723)
- Refund application form
- Request to form a VAT group (Form 606 A)

15.4. Information for state, provincial or local indirect taxes

There are no state, provincial or local indirect taxes in Belgium, and therefore, no information is provided in this section.

15.5. Other

Transaction value

In Belgium, the transaction value is defined by Article 29(1) of the Community Customs Code as the price actually paid or payable for the goods when sold for export to the customs territory of the Community. This price can be further adjusted where necessary. Adjustments are made by adding:
- The following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods: (i) commissions and brokerage, except buying commissions; (ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question; (iii) the cost of packing, whether for labour or materials;
- The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable: (i) materials, components, parts and similar items incorporated in the imported goods; (ii) tools, dies, moulds and similar items used in the production of the imported goods; (iii) materials consumed in the production of the imported goods; (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Community and necessary for the production of
the imported goods;
■ Royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
■ The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and
■ The cost of transport and insurance of the imported goods, and loading and handling charges associated with the transport of the imported goods to the place of introduction into the customs territory of the Community. Provided that they are shown separately from the price actually paid or payable, the following are not included in the customs value:
■ Charges for the transport of goods after their arrival at the place of introduction into the customs territory of the Community;
■ Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plant, machinery or equipment;
■ Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer can demonstrate that:
   ● Such goods are actually sold at the price declared as the price actually paid or payable; and
   ● The claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.
■ Charges for the right to reproduce imported goods in the Community;
■ Buying commissions; and
■ Import duties or other charges payable in the Community by reason of the importation or sale of the goods.


1 Source: http://www.belgium.be/fr/impots/tva/taux/.
3 VAT Code, art. 8 and 8bis.
4 VAT Code, art. 10.
5 VAT Code, art. 44, § 3(1).
6 VAT Code, art. 44 § 3(2)(b) and Royal Decree No. 30.