

Flash News

Rate applicable to e-books

30 December 2011

As from 1 January 2012, the 3% reduced VAT rate will also apply to e-books pursuant to Circular 756.

In principle physical books, journals, newspapers, periodicals, including brochures and leaflets are subject to the 3% super reduced VAT rate in Luxembourg. Media predominantly devoted to advertising or of adult content are specifically excluded.

Based on the European legislation, the supply of digitised products falls within the definition of electronically supplied services that are to be subject to the standard VAT rate. On this basis, e-books do not fall under the super-reduced VAT rate and are currently subject to the 15% standard rate in Luxembourg.

That said, on 12 December 2011, the Luxembourg government issued a circular (Circular 756) pursuant to which the reference to 'book' in Luxembourg VAT Law should be understood as including e-books. As a result, e-books shall also benefit from the 3% super-reduced VAT rate. This circular is based on the communication (COM (2011) 851) issued by the European Commission on 6 December 2011. In this communication the Commission acknowledges the fact that similar goods and services should be subject to the same VAT rate and that progress in technology should be taken into account in this respect.

It is also worth noting that, on 17 November 2011, the European Parliament adopted a Resolution on the modernisation of VAT in order to boost the digital single market. For the European Parliament, a difference in treatment applicable to digital media is unsustainable considering the growth of this

segment of the market. The reasoning is simple: “The EU must be ambitious [...] and encouraging companies to develop and offer new pan-European online services should be a priority in the review of VAT rules”. The European Parliament’s Resolution states therefore that EU Law could allow Member States “to apply, on a temporary basis, a reduced VAT rate to electronically supplied services with a cultural content”. The European Parliament therefore considers that a new category of “electronically supplied services with a cultural content” could be included in the list of supplies which can benefit from a reduced VAT rate (Annex III of Council Directive 2006/112/EC).

The Luxembourg Circular on e-books will enter into force on 1 January 2012 even before new European legislation would be adopted.

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