



VAT Services

Turning challenges
into business efficiency



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Governments are increasingly relying on indirect taxes to generate revenue. For several years, businesses have witnessed the importance of indirect taxation as governments have embraced the shift from direct to indirect taxation.

All around the world and in the European Union, countries are adapting their rules to tax digital services and goods sold over platforms. Taxation at the place of consumption becomes the norm. Moreover, to combat fraud and maximise VAT collection, many countries are introducing e-audits, mandatory e-invoicing through governmental platforms, and introducing real-time data collection among other similar initiatives.

The Organisation for Economic Co-operation and Development (OECD) is revising its VAT/GST guidelines, and the European Commission is launching fundamental reforms for 2022 under the heading 'VAT in the digital age' covering

- 1) VAT reporting obligations and e-invoicing
- 2) VAT treatment of the platform economy and
- 3) single EU VAT registration.

The package is expected to harmonise and promote the provision of cross-border supplies in the single market, and to help improve tax collection and therefore ensure sustainable revenues during the COVID-19 recovery.

And on top of all of this, there is another challenge - court cases are multiplying.

As a result of all these factors, businesses that do not efficiently manage their indirect tax position face the risks of profit erosion, increased cash flow and compliance costs.

Our team helps organisations manage and mitigate their indirect tax position (VAT, registration duty, Insurance Premium Tax and Customs and Excise duty).



A VAT team dedicated to your business needs

We have the largest indirect tax team in Luxembourg, which includes more than 60 people.

We understand your challenges, which are driven by a constantly changing business and regulatory environment.

Each team member is part of an industry focus group which gives them a strong understanding of the industry at large and the business constraints of their clients. Members of the team also have a multidisciplinary approach to indirect taxation, reaching out to their PwC peers specialising in the industry concerned, such as banking, insurance, asset management, real estate, private equity and industrial and commercial companies.

Our dedicated VAT team coupled with our strong indirect tax network makes PwC Luxembourg your partner of choice to help identify both risks and improvements and find the solution for you that is best suited to your unique business requirements.



60 VAT experts



Industry-focused



Multi-disciplinary approach

We have solutions for the following industries and areas:

Dispute resolution

TP and VAT

Private Equity

Real Estate

VAT training programme

Banking and Insurance

Industrial, commercial and service companies

Asset Management

E-commerce

Compliance and process improvement

FAIA



Our solutions



Compliance and process improvement



Compliance functions become critical and the complexity of tax (and VAT in particular) is increasing. Incorrect reporting can lead to negative consequences (cash flow, reputation etc.)

Your challenges

Due to the changing regulatory environment and increasing demand for tax transparency, there is a clear trend for more VAT audits initiated by the VAT authorities.

The VAT compliance function goes well beyond the mere reporting of numbers into a VAT form. The VAT compliance function must be predictive and proactive, to provide you with valuable management information.

The VAT compliance function must be closely related to your tax and risk-management strategy.

- VAT-registered companies need to manage an increasing flow of data for the purpose of preparing their VAT returns, EC Sales Listings and Intrastat returns.

- VAT compliance may also be an additional operational cost for VAT-registered companies due to exponentially increasing reporting requirements. It is clearly becoming a bigger focus for businesses and tax authorities, who are developing sophisticated audit mechanisms.

Not to mention reputational risk: the tax authorities may charge fines or penalties for incorrect or incomplete VAT returns further to any additional amounts of VAT (along with interest) due after a tax assessment.

Moreover, the Luxembourg VAT legislation now also includes a personal liability for managers/directors.



We make sure that:

- + Your VAT returns are filed within the deadlines;
- + An efficient, risk-managed process is in place with a focus on continuous improvement and value add via thorough review of sample invoices against reported data for each VAT return prepared;
- + The information flows and processes between you and us are efficient;
- + You pay fair and competitive fees with no compromise on quality.

We assist the corporate tax compliance function through:

- Partnering with a dedicated team trained and focused on Alternatives in our Luxembourg VAT team, for all of your questions on the generation process of the returns;
- Our ability to absorb the workload in a seamless manner and with agility when having to deal with unexpected issues or circumstances;
- Our high-quality standards applied constantly in our deliverables and communications.

We help you throughout the life cycle of your company

- Preparation or review and filing of the VAT registration/deregistration forms;
- Preparation or review and filing of the periodic and annual VAT returns (and all other VAT filings, e.g. ESL, intrastat, etc.);
- Communication of the VAT risks and opportunities resulting from the preparation of the VAT returns;
- Review of the VAT assessments;
- Coordination with tax/VAT consultants during the life cycle of the company;
- Coordination with foreign countries for cross-borders tax compliance assignments.

We can further support you in the following areas:

- Screening of your structure to assess the VAT position of the entities and assessment of their VAT obligations;
- Use of our robust technology and lean processes to “work smarter” (from the data collection to data delivery) by providing you analytics, platforms, data visualisation etc.;
- Assistance in the context of a VAT audit from the tax authorities;
- Assistance with VAT litigation;
- VAT due diligence review for M&A transactions.
- Proactive management of the company's VAT situation (VAT manuals, invoicing guidelines, health checks, etc.).



Asset Management

Your challenges

VAT can be a significant cost to the asset management industry. A VAT exemption applies to the management of special investment funds, and so a range of services supplied to funds are not subject to VAT. However, certain services cannot benefit from the exemption and therefore may be subject to VAT. There are different interpretations of the scope of the exemption across different EU Member States and there is a growing volume of EU case law on the subject.

Furthermore, suppliers providing exempt services (management companies, administrative agents, etc.) have to determine how to recover VAT on their purchases following the guidance issued by the Luxembourg VAT Authorities.

Funds and asset managers must consider both VAT risks and opportunities when setting up and developing their product range.

The above challenges should be constantly monitored and reviewed in the light of the most recent decisions of the Court of Justice of the European Union clarifying the scope of the exemptions.



How we can help

- + We review the VAT treatment of services supplied and received and assist with VAT reporting obligations to monitor VAT risks;
- + We provide assistance in securing VAT treatment and in proper implementation in the VAT returns (advising on supporting documents/reviewing fee arrangements); and
- + We propose solutions to mitigate the cost of irrecoverable VAT and we identify savings opportunities (e.g. by implementing a specific and tailored input VAT recovery method that best reflects your business);
- + We provide tailored trainings dedicated to your team;
- + We can review your existing tax/VAT policies and/or design a policy enabling you to meet your tax obligations in an effective operational framework.



Your challenges

Banks and insurance companies are subject to special rules, since most of their activities are VAT-exempt.

As a consequence, they cannot recover input VAT in full.

One of their biggest challenges is the absence of clear definitions of services that are exempt. The VAT treatment of certain services (rendered or received) remains uncertain, and the exemptions are not applied consistently across EU Member States. The Court of Justice of the European Union is regularly asked to clarify the scope of the exemption. The main difficulty for operators, local administrations and tribunals is to interpret the provisions of a VAT Directive from 1977, whereas banks and insurance companies are now global financial players offering and buying complex and innovative products worldwide.

The challenges faced every day by financial institutions are:

- the globalisation of their business leading to the set-up of sophisticated structures, involving the incorporation of subsidiaries/ foreign branches and increasing the number of inter-company transactions;
- the need to be increasingly competitive involving the use of outsourcing, offshoring and shared service centres on the one hand and the development of new products and the use of technology to satisfy a new generation of customers on the other hand;
- the use of multiple IT systems that are not necessarily well equipped to cope with complex VAT data; and
- the necessity to be compliant with regulatory developments.

Back in 2020, the European Commission initiated the review of VAT rules for financial and insurance services. The consultation phase is now over and the European Commission is expected to release a draft legislative package by the end of 2022. The reform should be anticipated and followed closely since it may ultimately bring significant changes (e.g. mandatory option to tax, taxation of some specific financial services, fixed input VAT recovery rate, re-introduction of the cost sharing exemption for financial services players).



How we can help

- + We analyse the VAT treatment of services supplied and received and assist with VAT reporting to monitor and reduce VAT risks;
- + We provide assistance in securing VAT treatment and propose solutions to optimise cash flow and mitigate VAT leakage (advising on supporting documents, formalising/reviewing service agreements with third parties, intermediaries, affiliates, etc.);
- + We review input VAT recovery methods and set-up partial exemption special methods;
- + We help you adapt your IT environment to VAT reporting needs;
- + We assist with dispute resolutions (questions from the VAT authorities and claims);
- + We provide tailored trainings dedicated to your team.





Private Equity

Your challenges

VAT can be a significant cost to the private equity industry. Various supplies are made to and through investment vehicles and may trigger VAT if they cannot benefit from an exemption.

Funds, investment vehicles and holding companies may have to deal with VAT compliance obligations and liabilities or, depending on their profile, incur VAT charged by their suppliers (at the VAT rate applicable in their country).

A VAT exemption applies to the management of alternative investment funds, making Luxembourg a location of choice for setting up PE funds.

Holding vehicles face issues in determining whether they can recover VAT on their purchases and find methods to calculate the extent of such recovery.

Funds and investment vehicles must consider both VAT risks and opportunities when setting up and developing their product range.



How we can help

- + Tackling indirect tax issues your organisation faces on a day-to-day basis and at the occasion of the expansion of your business (e.g. identify and monitor VAT exposures and opportunities, due diligence, “health checks” etc.);
- + Structuring solutions in the framework of reorganisations and acquisitions (e.g. implement efficient structuring in relation to transaction costs, recharges and shared services etc.);
- + Designing and improving your indirect tax strategy;
- + Designing and improving internal controls and indirect tax risk management;
- + Managing your compliance and reporting obligations;
- + Improving automation, digitalisation and the management of FAIA/SAF-T when applicable;
- + Interacting with authorities, including prevention of litigation;
- + Providing general or custom-made training specific to your needs.



Your challenges

VAT challenges will differ depending on whether real estate investments are held within or outside Luxembourg.

Real estate structures are set up in a similar way to PE structures with funds, holding companies and property companies. Although these are two types of businesses, the main challenges in this regard can be very similar from a VAT perspective and relate to three main points: (1) recovering input VAT; (2) the possible use of VAT exemptions on services purchased in the acquisition and exit phases; and (3) compliance obligations.

For real estate in particular, property companies face challenges such as:

- defining the obligation to register for VAT in the countries where the properties are located;
- determining the right place of taxation for services purchased that depends on where the property is located (services connected with immovable property) and more generic services (e.g. accounting, audit, tax advice, etc.);
- justifying VAT recovery in Luxembourg where real estate is held outside Luxembourg (in particular, for property located outside the EU);
- opting for tax on rental income in a timely manner; and

- determining the recoverable VAT amount on development/construction/refurbishment costs and overhead costs.

Furthermore, in the development/construction phase of real estate property located in Luxembourg, property companies often have to pre-finance (part of) the VAT charged by their different suppliers, unless they are able to obtain regular reimbursements of VAT from the Luxembourg VAT authorities. This is particularly relevant where a provisional VAT recovery ratio was applied and VAT adjustment with respect to previous purchases must be made.



How we can help

- + Tackling indirect tax issues your organisation faces on a day-to-day basis and at the occasion of the expansion of your business (e.g. identify and monitor VAT exposures and opportunities, due diligence, “health checks” etc.);
- + Structuring solutions in the framework of reorganisations and acquisitions (e.g. implement efficient structuring in relation to transaction costs, recharges and shared services etc.);
- + Designing and improving your indirect tax strategy;
- + Designing and improving internal controls and indirect tax risk management;
- + Managing your compliance and reporting obligations;
- + Improving automation, digitalisation and the management of FAIA/SAF-T when applicable;
- + Interacting with authorities, including prevention of litigation;
- + Providing general or custom-made training specific to your needs;
- + Monitoring of the place of taxation of services, in particular the distinction between services linked to immovable properties and other services.



Industrial, commercial and service companies

Your challenges

Aligning VAT obligations with daily business operations can often be challenging, especially where legal requirements result in additional operational constraints and often additional and/or unexpected costs. VAT rules regarding cross-border transactions can be complex, and making sure your business is VAT-compliant in all the countries in which it operates may prove to be a daunting task. However, it is crucial, as unpaid VAT and fines can often be significant.

Finding an optimal operating model that combines business and tax needs may be difficult when you have to take into account the relevant VAT impacts and consequences for each operator in the supply chain.



How we can help

- + We can explore efficient solutions and cost-saving opportunities when dealing with your day-to-day VAT compliance obligations;
- + We secure VAT treatment and eliminate risks in relation to daily operations and cross-border transactions;
- + We help you find an operating model that takes into account both your business needs and the relevant VAT consequences; and
- + We help to VAT-code your transactions and configure your IT systems and we assist with your VAT reporting obligations.



Your challenges

Since 1 July 2021, new European VAT rules for business-to-consumers' (B2C) transactions are applicable. The changes have a significant impact for any business selling goods and/or services to consumers (i.e. private individuals and non-VAT registered persons) across the EU. The changes also affect marketplaces and platforms facilitating such sales where the value of goods is below €150.

This triggers VAT obligations for suppliers in the Member States of their customers where VAT is in principle due, i.e. either direct VAT registration in each country or the (Import) One Stop Shop (a single registration in the supplier's country of establishment through which all EU VAT is declared and paid).

This also results in various VAT rates being applicable to the services or goods depending on their nature and the place of residence of the clients (e.g. transport services, catering services, leasing of means of transport, etc.).

Particular attention should be paid to supplies made from a deemed foreign fixed establishment.

Furthermore, specific rules apply if vouchers and/or transaction chains involving intermediaries are used.



How we can help

- + We can assess the impacts of the 2021 rules on your business model;
- + We can analyse the business and legal implications of the different options available (VAT registrations in all EU Member States, registration under the OSS/IOSS declarative system mitigate the risk of non-compliance, assess the impact on the pricing of the products);
- + We help to implement any changes to systems and processes necessary to comply with the new rules;
- + We assist with VAT registration under the OSS/IOSS declarative system in Luxembourg or in any other EU Member State;
- + We assist with VAT reporting.



FAIA

Your challenges

Luxembourg VAT Law requires taxpayers to produce a structured electronic audit file, called the FAIA, upon request of the tax authorities. Following a pilot phase, the authorities are requesting FAIAs increasingly often. Generating and reviewing a FAIA file can be a difficult exercise, mainly due to the massive amount of information and the thousands of lines it contains.

Discover how PwC can help you generate and review a FAIA thanks to our unique service offering and experienced multidisciplinary FAIA team.

Find more information on <https://saft.pwc.lu/> and on <https://www.pwc.lu/en/vat/faia.html>



How we can help

PwC Luxembourg has assembled a dedicated team of accounting, IT and VAT experts to help you understand your FAIA obligations and implement the new requirements. Our assistance is always tailored to your specific needs where we can:

- + provide you with a simple way to collect your data through a set of pre-defined templates following the SAF-T structure requirements. Your SAF-T file will be then generated based on those information and will be assessed. You will be able to download your SAF-T files and our assessment reports from our platform.
- + provide you with an assessment of your SAF-T file simulating an e-audit, running a set of predefined tests, at several levels, proposed to you and agreed upfront depending on your specific needs and situation.
- + provide you with a way to improve your already generated SAF-T file by uploading it into the platform, converting the file into our templates and allowing you to correct the wrong data through our system. Then we generate and assess your SAF-T file simulating an e-audit, running a set of predefined tests, at several levels, proposed to you and agreed upfront depending on your specific needs and situation.

Other services





Dispute resolution

Your challenges

The Luxembourg VAT authorities remain very active in terms of audits. The statute of limitations in Luxembourg is five years, therefore they have a five-year period to challenge the positions taken by taxpayers in their Luxembourg VAT returns.

The audit can start with a request for information with respect to some amounts reported in the VAT returns, where taxpayers have to provide copies of invoices, copies of contractual documentation, reconciliation tables (for example between the charges/turnover in the VAT returns and the charges/turnover in the annual accounts). If the VAT

authorities decide to move forward with their control, they will usually issue a “Procès-verbal” where they detail their arguments to challenge a position taken by the taxpayer, who can submit observations to defend its position. Should the authorities not accept the arguments, they will issue a reassessment notice (“bulletin de taxation d’office” or “bulletin de rectification”). Following such notice, the taxpayer has three months (strict deadline) from the notification date to submit a claim that will be reviewed by the Director of the VAT authorities. If the Director upholds the position of the VAT office, the litigation can enter into a judicial phase, with strict deadlines

to lodge an appeal before the tribunal.

There are three key aspects when facing an audit:

1. Managing the deadlines properly (in particular for the administrative and judicial claims),
2. Providing complete information to the VAT office from the start of the audit to try containing the audit to its preliminary phase and not escalate to a claim, and
3. In the case of an administrative claim, respecting the form set by the law and case-law.



How we can help

We can help you at any step of the audit, from the initial request of information by a VAT officer to the technical aspects of an appeal before the tribunal (in conjunction with lawyers) by drafting responses to the VAT authorities.

One of the most crucial steps of an audit is the administrative claim following the receipt of a reassessment notice. The arguments raised in this claim will be the ones reviewed by the Director of the VAT authorities when considering the merit of the claim. It is also paramount that the claim respects the form set by the law and case-law,

which require that the claim is duly motivated with precise arguments and the necessary documentation. We can provide assistance with drafting the administrative claim.

If the litigation reaches the judicial phase, it must be kept in mind that we are not a law firm and cannot represent you in a procedure at tribunal level. However, we have experience working together with law firms on a judicial claim by providing our VAT technical expertise and experience with VAT litigation.





Your challenges

Interactions between Transfer Pricing (“TP”) rules and VAT is one of the recurrent topics of debate and concern for both businesses and tax authorities. Due to a lack of guidance, businesses aren’t always aware if TP rules have VAT implications or vice versa. Luxembourg implemented Article 80 of the EU VAT Directive and the tax authorities issued guidance in January 2019 regarding this provision.

Since 31 July 2018, the date the provision entered into force, there are three situations where taxpayers must ensure to apply the “normal value” to their transactions.

- Case n°1 - the price for a supply is lower than the open market value while the purchaser has a limited recovery right;
- Case n°2 - the price for an exempt supply is lower than the open market value while the supplier has a limited recovery right;
- Case n°3 - the price for a supply is higher than the open market value while the supplier has a limited recovery right.

When a transaction falls within one of the above scenarios, the consideration (price) of the supply (good or service) that must be applied by the parties is either:

- the open market value that would be applicable under conditions of fair competition for comparable supplies; or

- the purchase/cost price of the goods or the total expenses incurred by the supplier to supply the service, in the absence of comparables.

Based on this provision, the VAT authorities can now disregard the consideration (or price) agreed between related parties, retaining instead the open market value, which would be determined based on comparable transactions between unrelated parties.



How we can help

Considering the complexity of the current global business environment, the companies confronted to TP adjustments should organise their business in a holistic way to avoid mismatches stemming from different tax considerations, as for example for VAT in the context of Article 80 of the EU VAT Directive. An isolated view of VAT or TP, divorced from each other, and more generally from the overall business structure, could lead to important negative impacts. Moreover, as there is an expected increase in the number of cross-tax audits (TP/VAT), having a TP documentation up to date in place for all inter-company transactions has become critical.

We would be happy to help you navigate smoothly in this complex international tax requirement process with our TP and VAT teams, who have joined forces to help you succeed in your day-to-day tax-related work. Our team can assist you in reviewing the legal documentation when performing functional analysis, determining TP adjustments and checking if results lead to VAT implications.

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VAT training program

PwC's Academy helps you stay up-to-date with any VAT topics. Our experienced professionals deliver general as well as tailored trainings on all VAT areas. Our VAT training programme covers, among others, the following topics: VAT basics, Important changes in VAT for next year, Luxembourg VAT for foreign VAT experts, etc.

Discover our full VAT training programme and register on www.pwccademy.lu

www.pwc.lu/vat

PwC Luxembourg (www.pwc.lu) is the largest professional services firm in Luxembourg with over 2,900 people employed from 82 different countries. PwC Luxembourg provides audit, tax and advisory services including management consulting, transaction, financing and regulatory advice. The firm provides advice to a wide variety of clients from local and middle market entrepreneurs to large multinational companies operating from Luxembourg and the Greater Region. The firm helps its clients create the value they are looking for by contributing to the smooth operation of the capital markets and providing advice through an industry-focused approach.

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 156 countries with over 295,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com and www.pwc.lu.

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