

Luxembourg VAT treatment of directors of companies

Circular N° 781 (the “Circular”) regarding the VAT status of directors of companies as well as the VAT treatment of director’s fees was finally issued by the VAT Authorities on September 30, 2016.

The Circular specifies that the activity of **company director** is an **economic activity**, treated as a supply of services for VAT purposes. This activity is thus within the scope of Luxembourg VAT. As a consequence, the **directors** are considered as **taxable persons** for Luxembourg VAT purposes.

The activity of company director is subject to the standard VAT **rate of 17%**, when the supply of the services is located in Luxembourg. The taxable base for VAT purposes is the gross amount of the fees (including withholding tax levied on director’s fees).

The **reverse charge** mechanism is applicable when the director is located outside Luxembourg and the services are rendered to a person identified for VAT purposes in Luxembourg. In this case, the latter has to self-assess the Luxembourg VAT on the services provided.

According to the Circular, the **VAT exemption** regime is applicable if the total annual turnover of the director is below EUR 25,000 (which amount should be increased to EUR 30,000 in 2017). In such a case the director cannot recover any VAT input.

The Circular also indicates that an **employee** acting as a director **on behalf of his employer** is not regarded as a taxable person for VAT purposes, the VAT taxable person being in this case the employer.

Honorific activities of board members receiving director’s fees are exempt from VAT, when their indemnity is paid as a defrayal (i.e. reimbursement of costs).

The Circular is silent about directors of **investment funds**, but the general VAT exemption regarding management of investment funds should, in principle, be applicable.

The Circular must be **strictly applied** by Company directors as from January 1, 2017, implying for directors (if not exempt based on the above) i) to be registered for Luxembourg VAT purposes, ii) to charge VAT on their invoice and iii) to file VAT returns.



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