

NEWSLETTER

THE VAT BILL OF LAW N°8406, SUBMITTED BY THE LUXEMBOURG GOVERNMENT, IS SET TO BRING SIGNIFICANT CHANGES STARTING JANUARY 1, 2025.

Here are some key points:

1. Special Scheme for Small Enterprises:

The restructuring of the special scheme for small enterprises under the new VAT bill of law n°8406 that should normally be applicable as from January 1st, 2025 introduces two distinct schemes aiming to reduce administrative burdens and to facilitate cross-border trade:

1.A. Revised National Franchise Scheme (increase of the threshold from € 35,000 to € 50,000):

- The annual turnover threshold for eligibility to the Franchise scheme is increased from **€ 35,000 to € 50,000**.
- A pragmatic tolerance for the Franchise national scheme should be allowed when the € 50,000 threshold is exceeded by a maximum of 10%. In this case, the taxable person should still temporarily remain under the National Franchise scheme.

1.B. New Cross-Border Special Scheme:

The aim:

Up to now, the Special scheme was strictly national. For example, a merchant established in Belgium who benefits from the Belgian scheme and comes to sell a few products on the Luxembourg market cannot benefit from the Luxembourg Franchise scheme. Therefore, they must comply with the rules applicable to any taxable person making taxable sales in Luxembourg, including requesting a VAT number there. It is very likely that they will give up selling in Luxembourg due to the burden of formalities.

This type of situation is recurring and causes a loss of opportunity for both businesses and customers.

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As from 1st January 2025:

It has therefore been deemed useful that Franchise Special Scheme is extended to Cross-Border small business provided a procedure and some conditions are well fulfilled:

- In our example, the Belgian merchant will have to inform their national VAT authorities of their intention to carry out taxable activities in Luxembourg (with the total amount of the supply of services and goods expected), and the Belgian administration will notify the Luxembourg VAT authorities.
- In the same way, a taxable person established in Luxembourg and eager to benefit from the cross-border special scheme in another Member State would need to notify Luxembourg VAT authorities and should also need to determine periodically the total amount of the supply of services and goods performed in Luxembourg and in each other Member State.
- The purpose of this procedure is to ensure compliance with the sales or services threshold.

Currently, there is a turnover threshold set by each Member State. From January 1, 2025, there will be two thresholds.

- **The first threshold** will remain set by the Member States alone and will be different dependent on geographical variations. This national threshold is the turnover threshold that includes the supply of services and goods in the Member State of establishment of the taxable person. The national threshold is set by each Member States. Luxembourg has chosen to increase the current threshold from € 35,000 to € 50,000.
- The second threshold sets that the **annual turnover within the EU must not exceed € 100,000. Additionally, it specifies that the turnover generated in a member state other than the one of establishment must not exceed the national threshold applicable to taxable persons in that member state.**



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Here are some examples illustrating the application of these rules:

a) **A taxable person established in Luxembourg**, who makes sales of € 48,000 in Luxembourg, € 20,000 in Germany, and € 20,000 in Belgium, totaling € 88,000, **will only need to register with the Luxembourg VAT authorities and notify them of the Member States where they intend to conduct their activities.**

b) **A taxable person established in Belgium**, who generates a turnover of € 10,000 in Belgium (well below the current national threshold of € 25,000 applicable in Belgium), **and € 80,000 in Luxembourg, will not be able to benefit from the cross-border franchise scheme. Although the EU turnover is below the € 100,000 European threshold, the Luxembourg turnover exceeds the national Luxembourg threshold of € 50,000, which should be applicable as from January 1st, 2025.**

c) An architect established in France who draws up plans for a building to be built in Luxembourg is carrying out a transaction which, in principle, is subject to Luxembourg VAT. The fee for the plans in question is € 30,000. Provided that the turnover generated in France does not exceed the national threshold for small businesses, this architect could benefit from the special cross-border scheme and would therefore could be exempt from the obligation to file a VAT return.

In a nutshell:

- Applicable to taxable persons established in Luxembourg who conduct economic activities in other EU Member States
- Also applicable to taxable persons established in other Member States conducting economic activities in Luxembourg, provided they do not perform intra-community acquisitions of goods in Luxembourg.
- The annual turnover within the EU must not exceed € 100,000, nor the threshold applicable in Luxembourg (€ 50,000).
- Businesses under this scheme will also not charge VAT on their supplies. This means they cannot deduct VAT on their expenses and are exempt from the obligation to file VAT returns.

These changes are designed to simplify VAT compliance for small enterprises and promote cross-border economic activities.

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2. Virtual events:

The upcoming change in Luxembourg VAT Law regarding the place of supply for virtual events is a significant development. Here is a brief summary:

- **Current Rule:** For cultural, artistic, sporting, scientific, educational, entertainment, or similar activities provided to non-taxable persons, the place of supply is where the services are physically carried out.
- **As from 1st January 2025:**
 - > Starting January 1, 2025, the current rule that determines the place of supply for event access based on the physical location of the event **will only apply to physical access.**
 - > **For virtual access, the rules for electronic services will apply.** This means that virtual access will be taxed at the location where the non-taxable customer is established, has their permanent address, or usually resides.

Therefore, as from January 1st, 2025, the access to the same event could be subject to different localization rules and different VAT rates which could be summarized as follows:

1. Physical Attendance : Invoices with Luxembourg VAT for clients physically attending the event in Luxembourg.

2. Virtual Attendance by Taxable Persons : Invoices without VAT, with a reference to self-assessment for taxable clients attending virtually.

3. Virtual Attendance by Non-Taxable Persons: Invoices with VAT from the client's country (e.g., German, Belgian, French VAT) for non-taxable clients residing in other Member States attending virtually.

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For this last category (invoices with foreign VAT), the organizer will need to choose between registering for VAT in those Member States or using the One-Stop-Shop system allowing for electronic and centralized payment of various local VATs.

Here, the desire to tax at the place of consumption has clearly taken precedence over administrative simplicity. This change aims to harmonize the place of supply rules for virtual events across EU Member States, addressing disparities observed during the COVID-19 pandemic.

3. Reduced VAT rate of 8% to works of art, collectors' items or antiques and review of the profit margin scheme

The new provisions for the art sector introduce significant changes:

- **Current Rule:** The reduced VAT rate of 8% applies only to imports and domestic supplies of works of art, collectors' items, or antiques performed by the creators or their successors in line.
- **As from 1st January 2025:**
 - > The reduced rate of 8% will apply **to all supplies of such goods, including intra Community acquisitions and subsequent resales.**

However, taxable resellers or public auction organizers cannot opt for the profit margin scheme if the reduced rate is applied. When the profit margin scheme is used, only the standard VAT rate of 17% will apply

These changes aim to simplify and harmonize VAT treatment in the art sector, ensuring clarity and consistency across different types of transactions.

Conclusion:

The draft bill of law n°8406 issued on July 1st, 2024 will now go through the normal legislative process and maybe subject to further amendments. However, except for some exceptions, it is presumed to enter into force in 2025. Most the changes anticipated are the result of two European Directives and in this context, Luxembourg, like the other Member States, must translate these changes in National Law.