

Contents

- 1 Who is this booklet for?** 5
- 2 Services** 6
 - 2.1 *General* 6
 - 2.2 *Services in the Netherlands* 6
 - 2.3 *The customer pays VAT* 7
- 3 Goods** 8
 - 3.1 *Buying goods* 8
 - 3.1.1 *Buying goods in the Netherlands* 8
 - 3.1.2 *Intracommunity acquisition of goods* 9
 - 3.1.3 *Importing goods* 11
 - 3.2 *Selling goods* 11
 - 3.2.1 *Supplying goods to a customer in the Netherlands* 11
 - 3.2.2 *Intracommunity supplies* 12
 - 3.2.3 *Exporting goods* 14
 - 3.3 *Distance sales* 14
- 4 Immovable property** 15
 - 4.1 *Letting immovable property* 15
 - 4.2 *Selling immovable property* 16
 - 4.3 *Letting holiday homes* 16
- 5 Calculating VAT: rates and exemptions** 17
 - 5.1 *Exemption or reverse-charge mechanism* 17
 - 5.1.1 *The supply is exempt from VAT* 17
 - 5.1.2 *Reverse-charge mechanism instead of exemption* 18
 - 5.2 *The VAT rate is 0%, 6% or 19%* 18
 - 5.2.1 *The VAT rate is 0%* 18
 - 5.2.2 *The VAT rate is 6%* 18
 - 5.2.3 *The VAT rate is 19%* 19
 - 5.3 *What should you charge VAT on?* 19

6	Deducting and reclaiming VAT	19
6.1	<i>What VAT can you reclaim or deduct as input tax?</i>	20
6.1.1	<i>VAT included in an invoice</i>	20
6.1.2	<i>VAT paid on imported goods</i>	21
6.1.3	<i>VAT due on intracommunity acquisitions</i>	21
6.2	<i>Conditions for deducting or reclaiming VAT</i>	21
7	Representation	23
7.1	<i>You are represented by an authorised agent</i>	23
7.2	<i>You are represented by a tax representative</i>	23
8	Filing VAT returns and applying for VAT refunds	24
8.1	<i>Which tax office?</i>	24
8.2	<i>Registration</i>	25
8.3	<i>VAT returns</i>	25
8.3.1	<i>Filing a VAT return</i>	25
8.3.2	<i>Paying VAT</i>	25
8.3.3	<i>VAT refund</i>	26
8.3.4	<i>Administrative obligations</i>	26
8.3.5	<i>Declaration of Intracommunity Supplies</i>	26
8.3.6	<i>Statement for statistical purposes</i>	26
8.4	<i>Applying for a VAT refund</i>	27
8.4.1	<i>Applying for a VAT refund</i>	27
8.4.2	<i>Confirmation of trader status</i>	27
8.4.3	<i>Invoices</i>	27
8.4.4	<i>Deciding on your application</i>	27
8.4.5	<i>Additional assessment</i>	28
8.5	<i>Objections and appeals</i>	28
9	Further information	29

Who is this booklet for?

This booklet is intended for non-resident (i.e. non-Dutch) traders who supply goods or services in the Netherlands and are liable to Dutch VAT on these goods or services. The booklet also contains information for non-Dutch traders importing goods into the Netherlands or performing intracommunity acquisitions of goods in the Netherlands.

The term 'VAT' as used in this booklet refers specifically to Dutch VAT, which is known as 'BTW' or 'omzetbelasting' in the Netherlands.

Non-resident traders who do not supply any goods or services in the Netherlands, but who do nonetheless incur certain expenses on which VAT is charged, are entitled to reclaim this VAT. The relevant procedure is described in chapters 6 and 8.

A non-resident trader who has a permanent establishment in the Netherlands is subject to the same rules and regulations as domestic traders. This means that, for the purpose of the activities performed by his permanent establishment, the non-resident trader in question is treated as a domestic trader. In other words, he is obliged to register with the Dutch Tax and Customs Administration (Belastingdienst) and is regularly sent VAT return forms. Please note that this booklet is not intended for traders with a permanent establishment.

What is a permanent establishment?

A permanent establishment is an industrial or commercial establishment located in the Netherlands that is equipped with sufficient manpower and other resources to operate as an independent business. The establishment is used for supplying goods and/or services to third parties. A shop or another fixed retail outlet, and a workshop or a production plant with an adjoining office are all examples of permanent establishments. A store, a warehouse or an office that is used only for certain ancillary or secondary activities (such as performing research, advertising or distributing information) is not regarded as constituting a permanent establishment. A rented holiday home is also not regarded as being a permanent establishment.

Examples

- A German chain store sells goods from a branch in the Netherlands. This branch is a permanent establishment and is therefore regarded as a domestic trader. This booklet is not intended for traders with a permanent establishment in the Netherlands.
- A Belgian manufacturer owns a warehouse in the Netherlands that it uses for storing raw materials. This warehouse is not a permanent establishment. The contents of this booklet are relevant to this trader.

2

Services

2.1 *General*

Services are defined as all commercial supplies that do not constitute supplies of goods. The following are examples of services:

- passenger and freight transport;
- musical and theatrical performances;
- the granting of licensing rights;
- the activities performed by management consultants, lawyers and accountants;
- activities relating to movable or immovable property.

A non-resident trader supplying services is liable to VAT in the Netherlands only if:

- the service is rendered in the Netherlands (see section 2.2); and
- the customer is not charged any VAT (see section 2.3).

2.2 *Services in the Netherlands*

Services are liable to Dutch VAT only if they are performed in the Netherlands. There are special rules for deciding where a service is performed (known as the 'point of supply'), and the same rules apply in all EU member states. The basic rule is that services are provided at the place where the supplier is either resident or established. There are, however, a number of exceptions to this rule the most important of which are as follows:

- Services relating to immovable property are always regarded as being rendered at the place where the property is located.
- Services of a cultural, artistic, sporting, scientific, educational, leisure or similar nature are regarded as being rendered at the place where the relevant activity is actually performed.
- Consultancy services, advertising and employment services are regarded as being rendered at the place where the customer is established, assuming that the latter is a trader.
- Intracommunity freight transport is regarded as taking place at the point where the journey commences. If the customer has a VAT identification number issued by a member state other than the Netherlands, the point of supply is regarded as being in the other member state.
- The repair and processing of movable property are regarded as taking place at the point where the relevant activities are actually performed. If the activities are performed on behalf of a customer who has been issued with a VAT identification number and if the goods leave the Netherlands after being repaired or processed, the services are regarded as being rendered at the point where the customer is established.

2.3 | *The customer pays VAT*

If you are a non-resident trader supplying services in the Netherlands, you will not generally have to pay any VAT as the VAT charge will normally be transferred to your customer (under an arrangement known as the ‘reverse-charge mechanism’). In other words, in these cases it is not the service provider who is liable to VAT, but his or her customer.

This applies if the customer:

- is a trader who either is established or has a permanent establishment in the Netherlands; *or*
- is a corporate body that has its registered office in the Netherlands.

NB If the VAT charge is transferred to your customer, you are not allowed to include any VAT in your invoice.

If you are a non-resident trader supplying services in the Netherlands, and you need to pay VAT yourself (for example, because your customer is a private individual), you should register with the Dutch Tax and Customs Administration. You will also need to file a VAT return in the Netherlands. See chapter 8 for more information on this point.

Examples

- A lawyer based in Germany performs certain services for a trader in the Netherlands. Although the German lawyer is assumed to perform these services in the Netherlands, he is not liable to Dutch VAT because VAT is levied from his Dutch client. The German lawyer is not entitled to include VAT in his invoice.
- A firm of painters established in Belgium carries out painting work in a house in the Netherlands that belongs to a private individual. The painters are assumed to render their services in the Netherlands. Because the customer is a private individual, VAT is not transferred to the customer. The Belgian firm of painters is liable to Dutch VAT: they must register with the Dutch tax authorities and file a VAT return in the Netherlands.
- A British pop group performs at a concert held in the Netherlands and organised by a Dutch trader. The service is assumed to have been performed in the Netherlands. The VAT is transferred to the organisers of the concert.

3

Goods

Various situations may arise with regard to the sale and purchase of goods, each of which has its own specific VAT implications. We shall first be looking at different ways in which goods are purchased (section 3.1) before discussing various situations that may occur in relation to the sale of goods (section 3.2). The chapter concludes with a section (3.3) on distance sales.

3.1 *Buying goods*

You may find yourself in one of three situations when buying goods:

- You are buying goods in the Netherlands (see section 3.1.1).
- You are performing an intracommunity acquisition of goods in the Netherlands (see section 3.1.2).
- You are importing goods into the Netherlands (see section 3.1.3).

3.1.1 *Buying goods in the Netherlands*

If you buy goods in the Netherlands and they remain in the country after purchase, the supplier will charge you VAT. You may deduct this VAT

charge as input tax, unless you are intending to use the goods for a purpose that does not entitle you to deduct VAT (see chapter 6).

Example

You buy sheet steel in the Netherlands, which you then immediately sell on to a Dutch trader. Because the steel remains in the Netherlands, your supplier charges you VAT. You do not charge your Dutch customer any VAT; the VAT is transferred to the customer (see section 3.2.1).

If you buy goods with the intention of subsequently transporting them to another EU member state, e.g. to a company of your own located in an EU member state, the supplier is regarded as performing an intracommunity supply. He does not charge you any VAT as the supply is zero-rated (see section 5.2.1).

Example

You buy raw materials in the Netherlands that you supply to a company you own in Germany. The Dutch supplier is regarded as performing an intracommunity supply, which is zero-rated. The Dutch supplier may only do this, however, if you give him your German VAT identification number (see section 3.2.1).

NB If you pay for the goods in cash and take them with you straightaway, the supplier may find it difficult to prove that he has made an intracommunity supply. If he then decides to charge you VAT, you are entitled to deduct this charge as input tax. You yourself are regarded as performing an intracommunity supply when you supply the goods to the company you own in Germany (see section 3.2.2).

If you arrange for the trader from whom you buy the goods to export the goods immediately to a non-EU country, the supply is zero-rated.

3.1.2 Intracommunity acquisition of goods

If you buy goods from a trader in another EU member state and import these goods into the Netherlands before you have found a buyer for them, you are considered to have made an intracommunity acquisition of goods in the Netherlands, and are therefore liable to Dutch VAT.

You are obliged to register with the Dutch Tax and Customs Administration, which will give you a VAT identification number that you must pass on to your supplier. Once he has this number, he is no longer required to charge you any foreign VAT.

You are required to pay the VAT owing as a result of your intracommunity acquisition by filing a VAT return. You may generally deduct the VAT as input tax at the same time (see chapter 6).

Example

You buy a consignment of shoes from a shoe manufacturer in France, which you then arrange to be transported to a warehouse in the Netherlands. You are considered to have effected an intracommunity acquisition in the Netherlands. You are liable to Dutch VAT on the purchase price of the shoes. You should register with the Dutch Tax and Customs Administration, which will give you a VAT identification number that you should pass on to the French shoe manufacturer. Once the latter has this information, he should not charge you any French VAT.

Transferring your own goods to the Netherlands

You are also regarded as performing an intracommunity acquisition if you transfer goods for which you have not yet been able to find a buyer from your own business in another EU member state to the Netherlands. Again, you must register for VAT in the Netherlands and file a VAT return in the Netherlands.

Example

You own an engineering plant in Italy. You have a stock of spare parts in a Dutch warehouse. Whenever you transport spare parts from Italy to the Netherlands, you are regarded as:

- performing an intracommunity supply of your own goods from Italy to the Netherlands; and
- performing an intracommunity acquisition of goods in the Netherlands, which you should declare in the Netherlands.

The procedure is different if you have already found a buyer for the goods and the goods are transported to the Netherlands for the purpose of delivering them to the buyer. If the buyer is buying the goods for business purposes, he is regarded as performing an intracommunity acquisition in the Netherlands for which he is liable to VAT. You, in turn, are regarded as performing an intracommunity supply in the member state from which the goods originate. In this case, the buyer must give you his VAT identification number. If he does not have one, for example because he is a consumer, you should charge him VAT in the member state from which the goods originate, unless the rules for distance sales apply (see section 3.3).

3.1.3 *Importing goods*

Goods entering the Netherlands from outside the EU must be cleared with Customs, following which they can circulate freely within the EU. You will need to pay Customs the VAT owing on the imported goods, although you can then deduct or reclaim this charge as input tax if the import declaration form indicates that the goods are intended for you. In other words, the goods must have been imported in your name.

You may also make use of a tax representative, in which case you do not need to pay Customs the VAT owing on the imported goods. See chapter 7 for further information on this point.

Example

You buy goods in Morocco and arrange for them to be transported to the Netherlands. You declare these as having been imported by you. You are liable to Dutch VAT on the customs value of the goods.

You then sell the goods to Dutch traders. You are not liable to Dutch VAT on this transaction as the VAT charge is transferred to your customers (see section 3.2.1). You are entitled to reclaim the VAT you paid when you imported the goods.

NB Please note that you *are* liable to Dutch VAT if you sell the goods to private individuals. You should pay this VAT by filing a return. When you complete your VAT return, you may then deduct the VAT you paid when you imported the goods as input tax.

3.2 *Selling goods*

This section discusses a range of situations relating to goods located in the Netherlands:

- You supply the goods to a customer in the Netherlands (section 3.2.1).
- You perform an intracommunity supply (section 3.2.2).
- You export the goods (section 3.2.3).

3.2.1 *Supplying goods to a customer in the Netherlands*

If you supply goods to a customer in the Netherlands, there will not generally be any VAT charge because it will be transferred to the buyer. In other words, it is your customer, rather than you as the supplier, who is liable to VAT.

This is the case if the buyer:

- is a trader who either is established or has a permanent establishment in the Netherlands; or
- is a corporate body that has its registered office in the Netherlands.

NB Please note that, if the VAT charge is transferred to the buyer, you are not allowed to add VAT to the invoice.

Where a non-resident trader makes supplies in the Netherlands and is himself liable to VAT on these supplies (for example, because the buyer is either a private individual or another trader who is not established in the Netherlands), he should in any event register with the Dutch Tax and Customs Administration and should file a VAT return in the Netherlands.

Examples

- You own a warehouse in the Netherlands that is *not* classified as a permanent establishment for tax purposes. You supply goods from this warehouse to a Dutch trader. You are not entitled to add VAT to the invoices you issue for these supplies. The VAT charge is transferred to the Dutch buyer.
- You are an exhibitor at a computer trade fair in the Netherlands. When you transport computers to the Netherlands in connection with this trade fair, you are regarded as performing an intracommunity acquisition of goods. You are required to register with the Dutch Tax and Customs Administration and file VAT returns. If you subsequently sell the goods in question to private individuals, you are liable to Dutch VAT on these sales. If you subsequently sell them to Dutch traders, the reverse-charge mechanism applies, which means that it is the buyer who incurs the VAT charge.

3.2.2 Intracommunity supplies

You are regarded as performing an intracommunity supply if you sell goods to a trader in another EU member state. Intracommunity supplies are zero-rated. The buyer is regarded as performing an intracommunity acquisition in the EU member state for which the goods are destined. In other words, the VAT charge arises in the country of destination.

Even if you transport your own goods from the Netherlands to another EU member state (for example, if you move goods to another company of your own), you are still regarded as performing an intracommunity supply in the Netherlands and an intracommunity acquisition in the country of destination.

Even though intracommunity supplies are zero-rated, you will still need to register with the Dutch Tax and Customs Administration if you perform an intracommunity supply from the Netherlands. You must declare the intracommunity supply both on your VAT return and on a Declaration of Intracommunity Supplies ('Opgaaf Intracommunautaire leveringen', see section 8.3.5).

Zero-rating of intracommunity supplies

The following conditions must be met in order for a transaction to be regarded as an intracommunity supply of goods:

- The goods must physically be shipped to another EU member state. You must have documentary evidence for this, such as order forms, letters of confirmation and freight documents. A single document is generally not sufficient. The important thing is to have a set of related documents with which to prove your position.
- The buyer must be a trader with a VAT identification number in the country to which the goods are shipped.

You should state both your own Dutch VAT identification number and your customer's VAT identification number on your invoice.

If these conditions are not met, for example because the buyer is a private individual and does not have a VAT identification number, the supply is not considered to be zero-rated. This means that you should charge your customer VAT and pay it by filing a VAT return.

Examples

- You buy goods in China and import them into the Netherlands. You then transfer the goods to a business of your own in France. This means that the importation of the goods into the Netherlands is followed by an intracommunity supply. You are required to declare the intracommunity supply in the Netherlands, but may at the same time deduct the VAT you were charged on the import transaction.

You are also required to submit a Declaration of Intracommunity Supplies for the quarter in which you transferred the goods to your own business in France. You should note your French firm's VAT identification number on this Declaration.

You may, if you wish, use the services of a tax representative for the purpose of performing the import transaction, declaring VAT and completing the Declaration of Intracommunity Supplies (see chapter 7).

- A US company stores machine parts in a warehouse in the Netherlands, from which it supplies parts to a Belgian company. The supply of machine parts is regarded as a zero-rated intracommunity supply. The US company is required to declare the supply on its Dutch VAT return and also to submit a Declaration of Intracommunity Supplies (see section 8.3.5).

3.2.3 *Exporting goods*

A transaction is regarded as an export if it involves the shipment of goods to a non-EU destination. The transaction is zero-rated, irrespective of whether the goods are sold to a private individual or a trader. You are entitled to apply zero-rating only if you have documentary evidence to prove that the goods are actually being exported.

Export declaration

If you are exporting goods, you must declare the transaction to Customs. You may submit an export declaration yourself, but you may also arrange for a customs agent to do so on your behalf. You may also declare the export at a customs office on the EU's external border. For further information, please contact the Customs Taxline on 0800-0143. Please note that this is a toll-free, Dutch-language line.

3.3 | *Distance sales*

You own a business in another EU member state and you sell goods to private individuals or other persons without a VAT identification number in the Netherlands. In this case, you charge VAT in the country in which your business is established and also in the country in which you sell the goods. You will, however, need to pay Dutch VAT on these transactions if both the following circumstances apply:

- You arrange for the goods to be delivered to your buyer in the Netherlands. Either you do this yourself or you engage another firm, such as a postal service or an express delivery service, to do so on your behalf.
- The total value of these sales to Dutch customers exceeds €100,000 in a single year.

If you meet both these conditions, you will have to pay Dutch VAT on these sales, which are known as distance sales ('afstandsverkoop'). You will need to register with the tax office in Heerlen.

NB If you exceed the threshold of €100,000 in a particular year, you will not be subject to a threshold in the following year. This means that you

will be liable to Dutch VAT on all your distance sales, irrespective of their value.

Please note that you may opt to pay Dutch VAT on all your distance sales, even if you do not expect them to exceed the threshold value. To make use of this option, you will need to file a request in your own EU member state.

The threshold of €100,000 does not apply to excise goods, i.e. products subject to excise duty. Please contact the tax office in Heerlen for further information.

The procedure for distance sales also applies in the opposite situation, in which a trader sells goods from an establishment in the Netherlands to private individuals who are resident in other EU member states. As it is highly unlikely that non-resident traders who do not have a permanent establishment in the Netherlands will ever effect any distance sales from the Netherlands, this subject is not dealt with in this booklet. Please contact the tax office in Heerlen for further information.

4

Immovable property

4.1 *Letting immovable property*

The *letting* of immovable property is exempt from VAT. The exemption does not, however, apply to:

- the letting of machinery and equipment;
- the letting of accommodation in hotels, guesthouses, bungalow parks and other leisure accommodation;
- the letting of parking spaces for vehicles and the letting of moorings and storage facilities for vessels;
- the letting of immovable property if the landlord and the tenant agree not to make use of the exemption.

It is only possible to ask for the exemption to be waived (a situation known as the ‘option to tax’) if the tenant may deduct at least 90% of the VAT charged on the rent as input tax. The great advantage of opting to tax

is that the landlord can deduct the VAT charged on the purchase of the property and on the cost of maintenance. This allows him in turn to charge a lower rent.

If you are a non-resident trader and are letting immovable property to a trader established in the Netherlands, the Dutch trader is charged VAT on the rent (see section 2.3).

Please contact the Tax and Customs Administration for further information on the VAT position with regard to the letting of immovable property.

4.2 | *Selling immovable property*

Although the *sale* of immovable property is also exempt from VAT, this rule does not apply in the following situations:

- in the event of all or part of a building and the land belonging to it being sold within two years of its first occupation;
- in the event of the sale of a building site.

In these situations, if the buyer is a trader who is established in the Netherlands, the latter is liable to VAT (see section 3.2.1).

Finally, the *sale* of immovable property is also regarded as being a taxable supply if the seller and the buyer together lodge a request for the transaction not to be exempted from VAT. This is only possible, however, if the buyer is able to claim a refund of at least 90% of the VAT charged. In such an event, the buyer is always liable to VAT, irrespective of the country in which he is resident or established.

Please contact the Tax and Customs Administration if you are in doubt about the VAT position with regard to the sale of immovable property.

4.3 | *Letting holiday homes*

Letting a holiday home is regarded as a professional activity, which means that the landlord is classified as a trader. This does not apply if you have bought the property in question for the purpose of occupying it yourself and if you only sporadically let it to third parties. If you let the property for at least 140 days a year, the tax authorities will assume in any event that you are liable to VAT. The VAT rate for the letting of holiday accommodation is 6%.

Please note that a holiday home in the Netherlands is not regarded as constituting a permanent establishment. If you let a holiday home in the

Netherlands, you will continue to be regarded as a non-resident trader. If the tenant is a private individual, you will be liable to VAT. If you let a holiday home to a trader (for example, a firm managing a holiday park), the tenant will need to pay the VAT owing on the rent (see section 2.3).

See section 6.2 for further information on the rules applying to the private use of holiday homes.

5

Calculating VAT: rates and exemptions

If you supply goods or services in the Netherlands, you do not need to charge VAT if the supply in question is exempt or if you make use of the reverse-charge mechanism. The situations in which this applies are described in section 5.1.

If you do need to charge VAT, there are three possible rates from which to choose. Section 5.2 explains when each rate applies.

5.1 *Exemption or reverse-charge mechanism*

5.1.1 *The supply is exempt from VAT*

Various types of supply are exempt from VAT. Please note that you cannot deduct input tax in relation to an exempt supply. In other words, you are not entitled to recover the VAT charged on the costs you incur in making such supplies.

Broadly speaking, the following supplies are exempt from VAT:

- the letting and sale of immovable property (see chapter 4);
- educational services;
- medical services;
- certain supplies of goods and services of a social and cultural nature;
- financial services;
- services performed by composers, writers and journalists.

Please contact the Tax and Customs Administration if you would like to know whether a particular service is exempt from VAT.

5.1.2 *Reverse-charge mechanism instead of exemption*

In principle, a supply is liable to VAT if it is not exempt. However, you are not entitled to charge VAT on supplies to Dutch traders that are subject to the reverse-charge mechanism. This procedure (see sections 2.3 and 3.2.1) applies if your customer:

- is a trader who either is established or has a permanent establishment in the Netherlands; or
- is a corporate body that has its registered office in the Netherlands.

You are entitled to claim a refund of the VAT charged on the costs you incurred in making these supplies.

5.2 | *The VAT rate is 0%, 6% or 19%*

If a supply is not exempt and is also not subject to the reverse-charge mechanism, it is automatically taxed at one of three possible rates. The following sections explain the situations in which these rates apply.

5.2.1 *The VAT rate is 0%*

Supplies by traders doing business with non-resident customers are zero-rated. Such transactions generally involve the sale of goods. Sections 3.2.2 and 3.2.3 describe the circumstances in which such supplies are zero-rated. A zero rate has the same effect as an exemption, but with the retention of a right to deduct input tax.

5.2.2 *The VAT rate is 6%*

The low rate of VAT is 6%. This rate applies, for example, to the supply, import or intracommunity acquisition of:

- food, drink (excluding alcoholic beverages) and the ingredients used in their production;
- cattle, sheep, goats, pigs and horses;
- medicines;
- books, daily newspapers and magazines;
- agricultural and horticultural seeds;
- ornamental plants.

The following services are also taxed at 6%:

- passenger transport;
- paintwork on *dwellings* that are over 15 years old;
- the letting of holiday homes;

- performances by performing artists;
- the granting of admission to:
 - circuses;
 - travelling fairground attractions;
 - musical and theatrical performances;
 - sports events.

5.2.3 *The VAT rate is 19%*

In all other cases, you should charge VAT at the basic 19% rate. In other words, the 19% rate applies to supplies that are not exempt, not subject to the reverse-charge mechanism, not zero-rated and not taxed at 6%.

Please contact the Tax and Customs Administration if you would like to know which rate applies to a particular supply.

5.3 *What should you charge VAT on?*

The price charged for a good or service often consists of a number of different elements. In the case of a taxable supply, the basis of taxation is the total sum that you charge your customer, i.e. including postage, travel expenses, telephone charges, packaging (excluding deposits on returnable bottles) and so forth.

In the event of a purchase made in the Netherlands of goods from another EU member state, the VAT charge is based on the amount your supplier charges you. You should convert this figure into euros if it is not stated in euros, using the rate of exchange on the date on which the VAT charge arises.

6

Deducting and reclaiming VAT

If you buy goods or incur other costs in the Netherlands on behalf of your firm, your suppliers will charge you VAT. You will also need to pay VAT if you import goods into the Netherlands from non-EU countries, or if, acting from an establishment in the Netherlands, you purchase goods from another EU member state. You are entitled to deduct the VAT you are charged on

your purchases and costs (known as ‘input tax’) from the VAT you have to pay in the Netherlands. If the amount of input tax is larger than the amount of VAT you have to pay, you are entitled to a refund of the difference. Even if you do not supply any goods or services in the Netherlands, you are still entitled to recover the VAT. This chapter explains what VAT you can deduct or reclaim as input tax, and under what conditions.

6.I What VAT can you reclaim or deduct as input tax?

6.I.I VAT included in an invoice

If you buy goods or services in the Netherlands, your supplier will charge you VAT. The first requirement, in order to deduct or recover this VAT, is the presence of a proper invoice. A proper VAT invoice should include the following information:

The diagram shows a Dutch VAT invoice with the following fields and callouts:

- 1: the supplier's name and address; (points to the top header)
- 2: the customer's name and address; (points to the customer details)
- 3: a description of the goods supplied, including the quantity, or a description of the service supplied; (points to the description of the service)
- 4: the invoice date; (points to the date 10 januari 2012)
- 5: the serial number of the invoice (invoices should be numbered consecutively); (points to the number 02-0044)
- 6: the date on which the goods or services were supplied; (points to the date 10 januari 2012)
- 7: the price excluding VAT; (points to the amount € 2.810)
- 8: the VAT charge; (points to the amount € 0.210)
- 9: your VAT identification number; (points to the supplier's VAT number NL123456789)
- 10: your supplier's VAT identification number. (points to the customer's VAT number NL987654321)

It is important that the invoices you receive from your suppliers should include this information. If they do not, you should ask your supplier to issue you with a fresh invoice, as you may otherwise not be entitled to deduct or reclaim the VAT specified on the invoice.

Receipts issued by filling stations do not need to include the customer's name or the car registration number.

NB Traders in the agricultural industry are entitled to an exemption under a special scheme, under which they do not have to include VAT on their invoices. If you buy goods from a trader applying this exemption, you are still entitled to deduct 5.1% of the invoice amount as input tax. The supplier must, however, make clear on his invoice that he is entitled to this special exemption.

6.1.2 *VAT paid on imported goods*

In order to deduct or reclaim VAT paid on imported goods, you must have the original import documents in your possession specifying the VAT charge. If you have instructed a customs agent to handle the import transaction on your behalf, you will not have the original import document yourself. In this case, the invoice issued by the customs agent will state the VAT charge that you paid on the imported goods and which you are entitled to deduct or reclaim.

6.1.3 *VAT due on intracommunity acquisitions*

You should include on your VAT return any VAT you owe as a result of intracommunity acquisitions of goods in the Netherlands (see section 3.1.2). You can deduct this VAT as input tax at the same time.

6.2 *Conditions for deducting or reclaiming VAT*

You may only deduct or reclaim the VAT you have paid when buying goods and services if you comply with the following two conditions:

- You use the goods and services for professional purposes, i.e. for your own business. In other words, the VAT you pay on goods and services intended for your personal use is not deductible.
- You use the goods and services for taxable activities. You may not deduct VAT as input tax if you use the goods and services in question for exempt activities (see section 5.1).

NB Zero-rated supplies and supplies where the VAT charge is transferred to the buyer are also regarded as taxable supplies.

Under no circumstances are you entitled to deduct as input tax the VAT paid on food and drink in hotels, restaurants and other catering establishments. You are entitled to deduct the VAT charged on the cost of accommodation and suchlike provided that you have incurred the costs in question for the purpose of performing taxable activities.

Mixed use

If you use certain goods or services not just for the purpose of performing taxable activities, but also for exempt or non-business activities, you will need to divide the input tax into two components: a deductible component and a non-deductible component.

Examples

- You own a commercial property in the Netherlands. You let half the property to a shopkeeper, and the other half to an insurance agent. You charge the shopkeeper VAT, but not the insurance agent. When you have the building painted, you are entitled to deduct only half the VAT charged by the painters, as half the surface area is used for exempt activities.
- You have bought a holiday home in the Netherlands which you and your family use during your holidays. You also let the home to third parties; this is a taxable activity (see section 4.3). Only a proportion of the VAT charged on the purchase of the holiday home, and on the cost of its maintenance, is deductible.

For further information (notably on the rules regarding the personal use of holiday homes), please contact the tax office in Heerlen (Belastingdienst/Limburg/kantoor Buitenland).

7

Representation

7.1 *You are represented by an authorised agent*

If you are required to file a VAT return in the Netherlands or wish to claim a VAT refund in the Netherlands, you do not have to do this yourself. You are free to authorise a third party to represent you vis-à-vis the Dutch tax authorities. An authorised agent can apply for a VAT refund on your behalf, file VAT returns and complete any other formalities. Most authorised agents are experts, such as accountants or tax consultants, but there are no hard and fast rules for this. You are free to decide for yourself whom to authorise and what type of business the agent is allowed to transact on your behalf.

7.2 *You are represented by a tax representative*

A tax representative is a special type of authorised agent for non-resident traders. Tax representatives have to meet a number of statutory requirements. For instance, they must be established in the Netherlands and must provide security for VAT purposes. You will need a tax representative if you wish to make use of the reverse-charge mechanism in relation to goods imports. Customs agents (who specialise in handling import and export formalities for traders) are often appointed as tax representatives.

Example

You are intending to import goods into the Netherlands from the United States, and subsequently to distribute them to other EU countries. You will have to pay a VAT charge when declaring them for import. You can then deduct this VAT charge as input tax when submitting your regular VAT returns. You will have to fill in a Declaration of Intracommunity Supplies every quarter, on which you should list any supplies you have made to traders in other EU member states (see section 8.3.5).

If you appoint a tax representative, he will handle your VAT returns and file your Declarations of Intracommunity Supplies on your behalf. The VAT return should also specify the intracommunity supplies arising from the goods imports. Your tax representative can also apply the reverse-charge mechanism

for VAT charged on imported goods on your behalf. Under this arrangement, you do not need to pay the VAT due on imported goods at the time you declare them for import. Your tax representative declares the VAT you owe on the imports in the regular VAT returns, and deducts the relevant charge as input tax at the same time. In other words, you no longer need to pay this VAT charge up front. Also, if you appoint a tax representative, you are not obliged to register for VAT in the Netherlands if you are not performing any other taxable activities there.

NB Even if you appoint an authorised agent or a tax representative:

- you still remain responsible for complying with your legal obligations;
- you still remain a non-resident trader. Your customer is still required to pay VAT if you supply goods or services to a trader or corporate body established in the Netherlands.

Please contact the Tax and Customs Administration for further information on tax representatives.

8

Filing VAT returns and applying for VAT refunds

8.1 *Which tax office?*

The Heerlen tax office (Belastingdienst/Limburg/kantoor Buitenland) handles all tax matters relating to non-residents, including both private individuals and traders. In other words, it deals with non-resident traders who are required to pay or wish to reclaim Dutch VAT.

If you have appointed a tax representative (see chapter 7), your VAT matters are handled by your tax representative's local tax office.

There are two categories of non-resident trader for VAT purposes: traders who regularly file VAT returns (see section 8.3) and traders who apply for a VAT refund (see section 8.4). Non-resident traders need to register before they can be sent VAT returns to complete, or before they are entitled to apply for VAT refunds (see section 8.2).

8.2 | *Registration*

You should write to the tax office in Heerlen (Belastingdienst/Limburg/kantoor Buitenland) to register for VAT. The address is given at the back of this booklet. You will first be sent a general questionnaire which the tax office uses to decide whether, depending on the nature and scale of your activities in the Netherlands, you should either submit regular VAT returns or just complete and return a single application form for a VAT refund ('Verzoek om teruggaaf').

You are automatically obliged to register for VAT and submit VAT returns if you incur a VAT charge in the Netherlands or if you perform intracommunity supplies or acquisitions of goods (see chapter 3).

8.3 | *VAT returns*

8.3.1 *Filing a VAT return*

If you are required to submit VAT returns, you will be sent VAT returns to complete on a regular basis, generally once a quarter. You are obliged to complete and sign each return, and return it within two months of the end of the period it covers. This is also the case even if you have not conducted any activities in the Netherlands during this period, and even applies if the value of the VAT refund to which you are entitled is greater than your VAT liability.

The VAT return comes with a brief set of explanatory notes (in Dutch). If you wish, you can ask to be sent a more detailed version of these notes in English. You can also access these notes on the Tax and Customs Administration's website (<http://www.belastingdienst.nl>).

8.3.2 *Paying VAT*

If, after deducting any input tax, the net result is a VAT liability, you are required to pay this amount within two months of the end of the period to which your VAT return relates. The date on which the tax authorities' account is credited with your payment is taken as being the date of payment. The information accompanying the VAT return describes the various methods of payment you may use.

NB The tax authorities may issue an additional assessment, plus a penalty if appropriate, if you fail to submit a VAT return in good time or fail to pay the VAT due in good time.

8.3.3 *VAT refund*

If the amount of input tax is larger than the VAT charge, your VAT return is treated as being an application for a VAT refund. Generally speaking, the tax authorities will notify you in writing within a few months of whether they have decided to grant your request for a VAT refund.

8.3.4 *Administrative obligations*

The first time you submit a VAT return, you should enclose all original invoices and receipts you have received, as well as copies of sales invoices you have sent. On every subsequent occasion you file a VAT return, you should enclose a statement detailing the invoices relating to the figures quoted in the return. In order to check the accuracy of the information in your VAT return, the tax office may ask you for copies of invoices you have issued, original invoices and receipts you have received and other types of documentary evidence. The tax authorities are entitled to adjust your VAT returns for up to five years after the end of the year in question by issuing an assessment.

8.3.5 *Declaration of Intracommunity Supplies*

If you perform zero-rated intracommunity supplies of goods from an establishment in the Netherlands, you are required to submit a Declaration of Intracommunity Supplies ('Opgaaf intracommunautaire leveringen') at the end of each quarter. Your declaration should specify your customers' VAT identification numbers, as well as the total value of the intracommunity supplies made to each individual customer from the Netherlands during that quarter. The Declaration of Intracommunity Supplies is accompanied by a set of explanatory notes in three languages, including English. You can also consult these notes on the Tax and Customs Administration's website (<http://www.belastingdienst.nl>).

Please note that you may incur a penalty if you do not submit your Declaration of Intracommunity Supplies in good time, or if your declaration is inaccurate or incomplete.

NB The first time you make an intracommunity supply from an establishment in the Netherlands, you should apply to the tax office in Heerlen (Belastingdienst/Limburg/kantoor Buitenland) for a Declaration of Intracommunity Supplies.

8.3.6 *Statement for statistical purposes*

You are required to submit a monthly statistical return to Statistics Netherlands in Heerlen if the value of your intracommunity supplies or acquisitions exceeds €225,000 per year. If you wish, you can file this return electronically by using a special, free software package known as IRIS. For further information, please contact CBS / Intrastat Infodesk, Postbus 4481, 6401 CZ Heerlen (tel. +31 (0)45 570 7920 or email hihbgs@cbs.nl).

8.4 *Applying for a VAT refund*

8.4.1 *Applying for a VAT refund*

You can apply for a VAT refund by completing a form that is standard throughout the EU. This form may be obtained either from the Heerlen tax office or from your local tax office if you are established in the EU.

You should submit your application *within six months* of the end of the calendar year in which the right to a refund arose. Please note that your application will not be considered if the value of the refund you are requesting is less than €25. You are also entitled to submit an application for a refund in relation to a period of less than one year, provided that the period in question is no shorter than three months. In the latter case, however, the minimum value of the refund is €200.

8.4.2 *Confirmation of trader status*

You should enclose a statement with your application confirming that you are liable to VAT in your home country. Traders established in an EU member state should apply to their own tax authorities for this declaration, which is valid for a period of one year. Traders established in a non-EU country who wish to apply for a VAT refund are entitled to produce other documentary evidence to show that they are classified as traders.

8.4.3 *Invoices*

You should enclose with your application the original invoices to which the application relates. These will be returned to you once your application has been processed.

8.4.4 *Deciding on your application*

Generally speaking, the tax authorities will send you written notice of the decision they have taken on your application within six months.

8.4.5 *Additional assessment*

Should it transpire that you have wrongfully been granted a refund, the tax authorities are entitled to issue an additional assessment to recover the value of the refund, plus a penalty should this be deemed necessary. This entitlement lasts for a period of five years from the end of the year in question.

8.5 | *Objections and appeals*

You are entitled to object if you do not agree with a decision taken by the tax authorities. You should lodge an official notice of objection with Heerlen tax office (Belastingdienst/Limburg/kantoor Buitenland) within six weeks. You will be notified in writing of the decision that is taken on your objection. You are entitled to appeal against this decision to the Court of Appeal. The letter informing you of the decision on your objection will contain information on how you should proceed if you wish to appeal.

9

Further information

If you would like more information, please contact the tax office in Heerlen. The address is as follows:

Belastingdienst/Limburg/kantoor Buitenland
Postbus 2865
6401 DJ Heerlen
The Netherlands
Tel.: +31 (0)45 577 95 00
Fax: +31 (0)45 577 96 34

Should you wish to visit the office in person, the premises are situated at Stationsstraat 40, Heerlen.

This booklet is also available in German and Dutch.

Other booklets about VAT

Non-resident traders may apply to the Tax and Customs Administration for the following Dutch-language booklets on VAT:

- Uw bedrijf en de BTW (Your business and VAT);
- Vermindering van BTW voor kleine ondernemers (Reduced VAT liability for small traders);
- BTW bij onderaanneming en uitlenen van personeel (VAT in relation to subcontracting and staff secondment);
- BTW bij handel in gebruikte goederen (VAT in relation to trading in second-hand goods);
- BTW bij verkoop van goederen aan het buitenland (VAT in relation to goods exports);
- BTW bij inkoop van goederen in het buitenland (VAT in relation to goods imports);
- Als u een bedrijfspand gaat kopen of verkopen (Are you intending to sell or buy commercial property?);
- Als u een bedrijfspand gaat huren of verhuren (Are you intending to let or rent commercial property?).

The Dutch Tax and Customs Administration also has its own website (<http://www.belastingdienst.nl>) with a full list of all available leaflets and booklets. You can either consult these online or order printed versions from the website.

This booklet is published by:

Tax and Customs Administration / Process and Product
Development Centre