



## VAT SOLUTIONS

VAT's new ?

Q4 2016

Updated Q1 2018

### VAT status of the company Directors

On 30<sup>th</sup> September 2016, the Luxembourg VAT authorities (Administration de l'Enregistrement et des Domaines – AED) published the [Circular 781](#), supplemented by a [FAQ](#) available on their website.

Circular 781 draws the attention of company Directors to their **VAT obligations in Luxembourg, which they are asked to comply with as of 1st January 2017**.

Any company Director who carries out this **activity on a regular and independent basis, and against remuneration**, is a VAT taxable person.

No matter how the consideration received is qualified (directors fees, attendance fees, additional dividends, etc.). It is sufficient that the remuneration is received in return for a service rendered. An exception concerns the remuneration received by the Director acting as an employee. Given his subordinate relationship with the employer, the employee is not considered as independent and is therefore not a VAT taxable person.

As a VAT taxable person, the Director must **comply with the obligations provided for by the VAT law of his country of residence or establishment** :

- **Non-Luxembourg based Directors** must check their VAT obligations in their country of residence.
- **Luxembourg based Directors** may be required to fulfil the following obligations:
  - register for VAT in Luxembourg and file VAT returns ;
  - issue invoices containing all the mandatory information, in particular the Luxembourg VAT at 17% or, if no VAT applies, a reference to the applicable exemption or to the VAT exemption scheme for small entrepreneurs.

The decision tree below provides information on VAT obligations of the Director, depending on the situation of the Director and assuming that the Directorship services are supplied to a Luxembourg VAT taxable person.

#### *Our recommendations*

Directors should review their status to determine what are their VAT obligations in their country of residence. They had until 1<sup>st</sup> January 2017 to comply with the requirements of AED.

The managed companies should at the same time carry out a review of the VAT situation of their Directors.

#### *Our services*

- Confirmation of the VAT status of the director together with his VAT obligations in his country of residence
- Assistance with the implementation of VAT obligations:
  - Preparation and filing of the VAT registration application
  - Preparation and filing of VAT returns
  - Coaching / Training

#### *Contact*



Karine Bellony, Managing Partner  
Karine.bellony@vat-solutions.com  
T +352 26 945 944 15



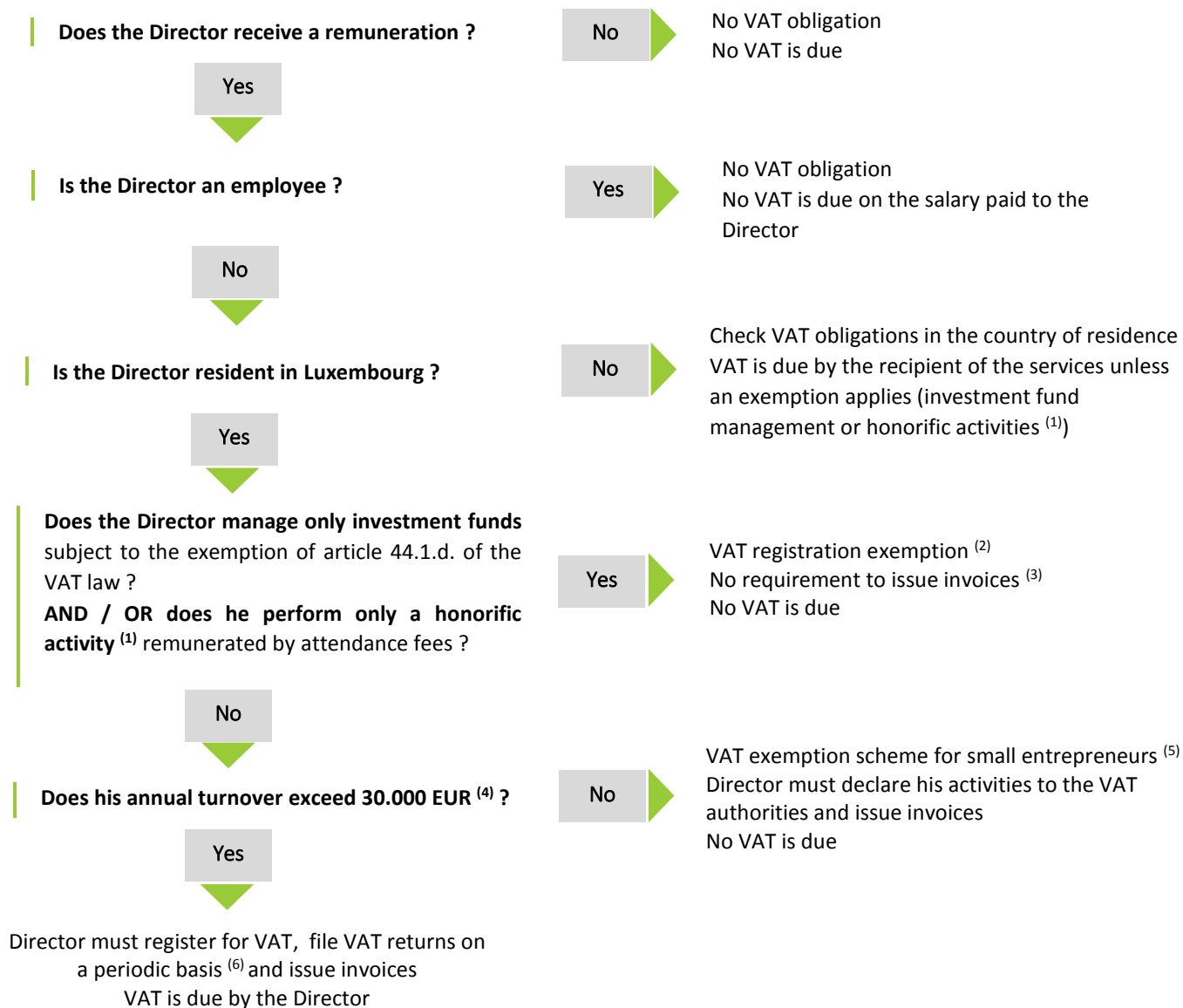
Michael Lambert, Director  
Michael.lambert@vat-solutions.com  
T +352 26 945 944 17



## VAT SOLUTIONS

### Decision tree

VAT obligations of Directors supplying Directorship services to Luxembourg VAT taxable persons



- (1) According to the VAT authorities, an activity is considered as honorific when the indemnity is paid as a compensation for expenses. This provision only concerns members of public bodies, business groups and chambers, boards of directors, management committees or similar bodies
- (2) VAT registration exemption, unless the director receives services from abroad concerning his function of director, and for which he is liable for Luxembourg VAT
- (3) Only for the exemption of article 44.1.d.
- (4) Amount Excluding VAT
- (5) VAT exemption scheme for small entrepreneur : no VAT is charged by the director, who cannot deduct any VAT on purchases made in relation to his director function. The director can however opt for the application of VAT on his services. He must in any case issue invoices and report his yearly turnover to the VAT authorities, filing a simplified yearly VAT return.
- (6) If the turnover is lower than 112.000 EUR, only annual return ; if the turnover is higher than 112.000 EUR but lower than 620.000 EUR, quarterly returns + annual recapitulative return ; if the turnover exceeds 620.000 EUR, monthly returns + annual recapitulative return