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Service public fédéral
**Affaires étrangères,
Commerce extérieur et
Coopération au Développement**

KINGDOM OF BELGIUM
Federal Public Service
Foreign Affairs,
Foreign Trade and
Development Cooperation

Protocol – Privileges and immunities (P1.1)

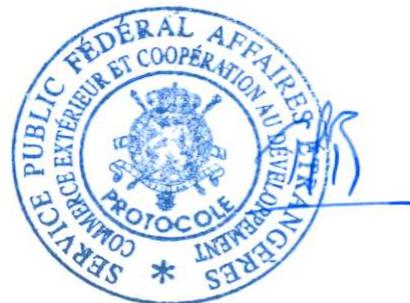
CIRCULAR NOTE

BELGIAN PROVISIONS RELATING TO EXEMPTION FROM VAT FOR DIPLOMATIC MISSIONS IN BELGIUM AND THE STAFF ACCREDITED TO THEM

(18 February 2012)

The Federal Public Service – Foreign Affairs, Foreign Trade and Development Cooperation presents its compliments to the Diplomatic Missions established in Belgium and has the honour of communicating to them, in agreement with the FPS Finances, the Belgium provisions on VAT exemption for the aforementioned Missions.

The Federal Public Service - Foreign Affairs, Foreign Trade and Development Cooperation avails itself of this opportunity to renew to the Diplomatic Missions established in Belgium the assurance of its highest consideration.



To the Diplomatic Missions established in Brussels.

BELGIAN PROVISIONS RELATING TO EXEMPTION FROM VAT FOR
DIPLOMATIC MISSIONS IN BELGIUM AND THE STAFF ACCREDITED TO THEM

(18 February 2012)
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1. Principle

In accordance with article 42 (3) of the VAT Code, the following are exempt from this tax:

- a) Deliveries and imports of goods and the provision of services carried out within the context of diplomatic relations;
- b) Deliveries and imports of movable property and provision of services, excluding building work, carried out for the personal use of members of diplomatic staff and the administrative and technical staff attached to the diplomatic missions established in Belgium.

In principle, Belgium does not apply **the principle of reciprocity** in the area of VAT exemption. Based on article 47 of the Vienna Convention on Diplomatic Relations of 18 April 1961, Belgium may apply the exemption in a limited manner provided that a similar exemption is also applied in a limited manner.

2. Important criteria

An important distinction first needs to be made between purchases made by the diplomatic missions (**official use**) and purchases made by the diplomats or the administrative and technical staff (**personal use**). The notions of official use and personal use are examined in detail below.

A second important distinction must be made between purchases made in Belgium, purchases made in other member states of the European Union and purchases of goods made outside the European Union and then imported into Belgium. Such imports may, in addition to the exemption from VAT, also benefit from an exemption from import duties.

3. Procedure and documents

(see official memo on tax forms).

4. Notion of "official use"

Official use means goods purchased and services provided in direct connection with the exercise of the functions of the beneficiary bodies concerned as outlined in FPS Finances circular no. 1 of 3 January 1978, the cost of which is definitively covered by the mission budget.

The exemption for official use is permitted where:

- In the case of deliveries of goods, the delivery address relates to a building whose official character has been established (registration of the address by the FPS Foreign Affairs);
- In the case of the provision of services, the official character of the service has been properly established.

4.1 Operations within the Belgian market or in a member state of the EU:

- a) **The purchase**, where such purchase is subject to VAT, **of real property** or its construction, intended for official use and accepted as such by P1.1, for the installation of diplomatic missions or the official residence of the head of mission, is only exempt on foot of an authorisation issued by the VAT section of the General Tax Administration. Building work relating to the real property (**renovation works**) referred to at a) above is exempt where it is ordered by and invoiced to the said mission, and where the cost is directly borne by the said mission. Based on article 19 (2)(2), of the Belgian VAT Code, building work means any construction, conversion, fitting-out, improvement, repair, maintenance, cleaning and demolition work on all or part of real property, as well as any operation involving both the supply of movable property and its installation within a building in such a way that such property becomes real property.

The exemption is also subject to the condition that the reciprocity also be applied to the Belgian state for its mission in a receiving state.

- b) **Supplies of water, gas, electricity and the provision of telecommunications and cable television services** to the real property referred to at a) above are exempt from the tax, irrespective of the quantity, subject to annual validation of a V.A.T and excise duties exemption certificate (see official memo on continuous supplies <http://www.diplomatie.be/fr/pdf/vrijstellingbtwfr.pdf>).
- c) **Supplies of movable property and the provision of services**, other than those referred to at 4.1, a), and b) above, are exempt from the tax where the quantity concerned comes to a **minimum** amount of **€123.95** per delivery or per service, not including VAT and where they satisfy the notion of official use, such as:

- **Office furniture and equipment** (including vacuum cleaners and floor polishers used to clean offices);
- **Supplies of fuel** to the real property referred to at a) above;
- **Telecommunications and cable television appliances and equipment;**
- **Office and chancellery supplies;**
- **Official cars and other means of transport** allocated for use by the mission or post (see official memo on diplomatic vehicles). The rental or leasing for official use of authorised vehicles is covered in the official memo dealing with diplomatic vehicles available on the website <http://www.diplomatie.be/fr/pdf/diplovoertuigfr.pdf>) provided that the cost is borne by the diplomatic mission.
- The **provision of services** (repair, maintenance, etc.) relating to these vehicles (see official memo on diplomatic vehicles);
- French, Dutch or German **language classes** for diplomatic or administrative staff where the fees are paid by the mission or post concerned;
- **Food items and provision of meals for official receptions** in the real property referred to at a) above. The exemption also applies to official receptions organised outside these buildings but only during the events listed below:
 - National holiday(s) of the country,
 - The assumption of duties or departure of a head of mission,
 - Official or working visit in Belgium of the Head of State, crown prince or princesses as well as members of the national government in office,
 - Extramural official receptions organised by the Permanent Representative of the member state which holds the Presidency of the Council of the European Union. These receptions may give rise to deliveries or provision of services other than those associated with the food items (e.g. wall decorations, audio installations, etc).

Thus, for (intra or extramural) delivery of foodstuffs and the resulting provision of services, in situations other than those listed above, the signature of the relevant tax authority shall always be affixed to the document used to claim the exemption. This document must be submitted as proof to the supplier or service provider ("Document 450" or "VAT and excise duties exemption certificate (Article 15, paragraph 10, of Directive 77/388/EEC and article 23, paragraph 1, of Directive 92/12/EEC)" (see official memo on different VAT and custom duties exemption documents dated 25 September 2007). These documents must also mention that: *"The goods and/or services listed overleaf are intended for use at the official reception to be held at ... (precise details of location), on ... (date), on the occasion of"*

- **Goods for domestic or private use** (such as, amongst others, a cooker, refrigerator, dishwasher and furniture and other domestic appliances) required to fit out a kitchen as well as the dishes and cutlery strictly necessary for the holding of official receptions in the real property referred to at a) above.

4.2 Operations which are not considered as intended for official use

- The **participation** by a foreign country, through its diplomatic mission, in a fair, trade show or exhibition;
- **Building work** carried out on buildings used to **house staff members** of a diplomatic mission, other than the head of the mission, and which are not, therefore, referred to at 4.1.a), even if such buildings are owned by the sending state or the mission, or if the costs of the related work are paid by the sending state or the mission. The same applies in the case of the purchase of goods which are clearly intended to be used in the construction, repair or maintenance of such buildings, as well as any provision of services relating to these buildings;
- Services provided by **travel agencies**;
- The delivery to a diplomatic mission, and the importing by the mission, of **school books** intended to be used within the context of education organised in Belgium by foreign countries for their citizens. The same applies for brochures or publications of a tourist nature, irrespective of how they are used;
- Deliveries and imports of goods which are not directly required for the diplomatic mission's actual functions. This is also the case for goods which are purchased or imported by a diplomatic mission or through the mission and which are intended to be exported outside the European Union or transferred to another member state or a third party;
- Cost of accommodation in a **hotel** or in any other establishment where paying guests are accommodated;
- **Clothes**, excluding work clothes such as uniforms for drivers, reception staff or security guards.

4.3 Imports into Belgium

Imports of goods by diplomatic missions may be exempt from tax in accordance with the procedure and conditions (in particular, in terms of reciprocity) laid down for the purpose of granting exemption from custom duties, irrespective of whether or not the goods imported are subject to such duties.

5. Notion of "personal use"

Personal use means operations carried out by beneficiaries in order to provide in Belgium for **their personal needs and those of their dependent family members** living under their roof and who are registered in the register of the Protocol Directorate – P1.1.

The notion of "own private needs" has a very limited scope, in the sense that only operations for the beneficiary's own, private needs, intended to be used or consumed in Belgium by the beneficiary and the members of his or her family registered in the register of the Protocol Directorate - P1.1, during the period of exercise of the staff member's functions with a diplomatic mission are permitted. This condition is satisfied, amongst other ways, by the fact that the **invoice** is drawn up in the name of the beneficiary and at his or her private address in Belgium.

However, in order to avail of the exemption, the **removal** of the furniture of the beneficiary concerned for which he or she is invoiced, shall be required to have actually taken place over the course of a period running from 20 business days prior to the assumption of official duties in Belgium up to 20 business days after the cessation of official duties in Belgium. The invoice relating to this removal shall clearly indicate the date of the removal. This provision concerns the provision of the transportation service only and does not give rise to any entitlement to VAT exemption for the goods being transported.

Persons to whom the Protocol Directorate – P1.1 grants tax privileges are: diplomatic, administrative and technical members of staff. Holders of permanent residence permits and Belgian nationals may not, under any circumstances, benefit from an exemption from VAT Mission service staff and private employees do not enjoy any VAT exemption either.

5.1 **Operations carried out within the Belgian market or within another member state of the EU**

Deliveries of moveable property and the provision of services to the persons referred to in section 5. may benefit from an exemption from tax where the amount concerned comes to **€247.89** per delivery or per service provided, not including VAT, **excluding** deliveries and the provision of the following goods and services:

- a) Deliveries of **buildings** and the creation, transfer and reassignment of property rights over the buildings, subject to VAT;
- b) **Building work:** deliveries of moveable property manifestly intended to be used in the construction, repair or maintenance of a non-official or private building, as well as provision of services relating to this building;
- c) **Supplies of water, gas, electricity and oil;**
- d) **Deliveries of general food items** (foodstuffs, drinks: spirits, beer, wine, lemonades, etc.);
- e) **Supplies of food and drink** consumed on the premises, i.e. in hotels, restaurants, snack bars, eateries, cafés and other places developed for this purpose;
- f) Costs of accommodation in a **hotel** or in any other establishment where paying guests are accommodated;
- g) **Telephone connections and communications:** this exclusion also applies to connections and transmissions of signals for cable television;
- h) Deliveries of goods and provision of services carried out, on the whole, for the needs of an apartment building totally or partially occupied either as owner or tenant;
- i) Deliveries of goods or the provision of services relating to all types of investments; purchases of gold coins usually intended for investment purposes;

- j) **Manufactured tobacco;**
- k) **Rental** of means of **transport;**
- l) The **purchase of certain means of transport** and associated provision of services (listed in the official memo on diplomatic vehicles available on the website (<http://www.diplomatie.be/fr/pdf/diplovoertuigfr.pdf>));
- m) Services provided by **travel agencies;**
- n) **Banking and financial transactions;**
- o) **Works of art,** collections and antiques;
- p) **Firearms;**
- q) **Services relating to non-exempted goods.**

5.2 Imports into Belgium

Imports of goods may be exempt from tax in accordance with the procedure and conditions (in particular, in terms of reciprocity) laid down for the purpose of granting exemption from custom duties, irrespective of whether or not the goods imported are subject to such duties.