



Ministerie van Financiën (IZV/
VB) Korte Voorhout 7
2511 CW Den Haag
The Netherlands

Amsterdam, 4 July 2019

Our ref.:

Dear,

The report is the result of consultations with our experts in various countries and composed/reviewed by our lead VAT-expert in English. As agreed, a translation in Dutch is attached to this original English version (as of page 25). The texts of the domestic regulations remain in English for reasons of comparison.

Questions and countries covered

The research focused on the following questions:

1. Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).
2. Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?
3. To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?
4. Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?
5. Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

The report covers the following countries: Belgium, Ireland, Germany, Finland, France, Luxembourg, United Kingdom and Sweden.



Background

On 6 November the Council of the European Union adopted Council Directive (EU) 2018/1713 amending Directive 2006/112/EC (VAT Directive) as regards rates of value added tax applied to books, newspapers and periodicals. The general purpose of the amendment was to enable Member States to align the VAT rate applicable to physical and electronic publications.

While physical publications are treated as goods for VAT purposes, electronic publications fall within the category of electronically supplied services. The VAT Directive does not provide a definition of electronically supplied services, but provides an indicative list of examples in Annex II. Council Implementing Regulation (EU) No 282/2011 (VAT Implementing Regulation) provides a general definition of electronically supplied services in Article 7, and refers to Annex I of the same regulation for further examples. In Annex I (3) c) electronic publications are specifically listed as electronically supplied services.

The above classification of electronic publications is relevant, because before the adoption of the new rules, all electronically supplied services were excluded from the scope of reduced VAT rates according to Article 98 (2) of the VAT Directive¹. The new Article 98 (2) however provides an exception from this general rule to electronically supplied services falling under point (6) of Annex III of the VAT Directive, which are:

*“supply, including on loan by libraries, of **books, newspapers and periodicals** either on physical means of support or **supplied electronically** or both (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), other than publications wholly or predominantly devoted to advertising and **other than publications wholly or predominantly consisting of video content or audible music**”*

In Preamble (6) the Council Directive (EU) 2018/1713 also emphasizes that the introduction of a reduced VAT rate to electronic publications is an option for Member States, consequently Member States may decide not to apply a reduced VAT rate to publications at all or even continue to apply the reduced VAT rate solely to paper based publications (subject to objective justification).

¹ It should also be noted that certain Member States have been applying super-reduced VAT rates or a zero VAT rate to paper based publications. The new rules cover these derogations too in the newly added Article 99 (3).



Executive Summary

	Belgium	Ireland	Germany	Finland
Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).	Yes	Yes	No	Yes
Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?	Detailed rules provided	No detailed rules No guidance	N/A	No detailed rule Interpretation available
To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?	No detailed rules	No detailed rules No guidance	N/A	No detailed rule Interpretation available
Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?	No detailed rules Yes, based on context	No detailed rules No guidance	N/A	No detailed rule Yes, interpretation available
Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?	No detailed rules No, based on context	No detailed rules No guidance	N/A	No detailed rule Yes, interpretation available

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	France	Luxembourg	United Kingdom	Sweden
Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).	Yes	Yes	No	Yes
Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?	Detailed rules for newspapers and magazines	No detailed provisions	N/A	No detailed provisions Limited guidance provided
To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?	No restriction in the law	No detailed provisions Limited guidance provided	N/A	No detailed provisions Limited guidance provided
Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?	Yes, criteria provided by law	No detailed provisions Possibly covered by the reduced VAT rate subject to interpretation	N/A	No detailed provisions Yes, based on guidance provided
Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?	No detailed rules, context of the legislation suggests that reduced VAT rate is not applicable	No detailed provisions Possibly covered by the reduced VAT rate subject to interpretation	N/A	No detailed provisions Possibly covered by the reduced VAT rate subject to interpretation

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Belgium

Text of the legislation (unofficial translation)²

Royal Decree No 20 of 20 July 1970 fixing the rates of value added tax and classifying the goods and services at those rates

Annex, Table A Section XIX. Newspapers, magazines and books

The reduced rate applies to:

1. books, brochures, leaflets and similar publications, including atlases;
2. newspapers and magazines, whether or not illustrated, to which the reduced rate of 0% referred to in Table C, section I, does not apply;
3. picture albums, picture books, drawing books and coloring books for children;
4. musical scores, whether or not illustrated.

The reduced rate applies to the publications referred to in the first paragraph, regardless of the manner in which they are made available to the reader, in particular:

1. on paper or cardboard, or on any other physical medium;
2. electronically.

The following are excluded from this section: publications that

1. consist exclusively or mainly of advertising material;
2. consist exclusively or mainly of video content or listenable music.

Annex, Table C

Goods and services subject to the rate of 0%.

I. Periodic publications

§ 1. The reduced rate applies to printed periodic publications that:

1. are intended for the general public, taking into account the nature of the themes and the way in which they are dealt with;
2. do not consist exclusively or mainly of advertising material;
3. that comprise a coherent whole of press articles that:
 - a) are protected by copyright;
 - b) were written and compiled under the final responsibility of a professional editorial staff composed mainly of journalists who:
 - are entitled to use the title of professional journalist referred to in the law of 30 December 1963 on the recognition and protection of the title of professional journalist or who are entitled to use the title of professional journalist referred to in the Royal Decree of 12 April 1965 establishing identification documents and markings for the members of the periodical press for specialized information, if it concerns Belgian periodical publications;

² Original text in Dutch: (last accessed 12 June 2019)



– be accredited as professional journalists, if it concerns periodical publications abroad;

4. appear:

- a) without limitation in duration;
- b) at regular, predetermined intervals;
- c) at least forty-eight times a year;
- d) under a common name;
- e) with the clear characteristics of their periodicity.

§ 2. The reduced rate does not apply to the following categories of printed periodical publications:

1. publications that mainly contain a complete novel, story or work of any nature or episodes of such works, either in the form of a or unlighted text, either in the form of a cartoon with short or unwritten or signed text;
2. the books published in episodes, the appearance of which occupies a limited space of time or which form an addition or an update to works already published;
3. the advertising sheets, prospectuses, catalogs, almanacs, price lists, price lists, ship messages, notarial messages, timetables;
4. the specialized publications for professional use;
5. the publications that only contain thinking games;
6. publications that are published under the name of an industrial, financial, commercial or other enterprise, even if they only contain texts or illustrations of general interest without direct advertising;
7. publications whose main purpose is to look up, maintain and extend agreements for the benefit of industrial, financial, commercial or other companies and which are only a means of publicity for companies;
8. the publications that are the subject of a delivery, an intra-Community acquisition or an import after the expiry of the one-year period from the date of publication;
9. the publications that are united in complete or incomplete collections, in one volume, or in periodical or non-periodic albums;
10. the publications that exclusively or mainly consist of video content or listenable music;
11. the publications that are sold as waste paper or cardboard.

§ 3. The reduced rate applies to digital publications that:

1. meet the conditions referred to in § 1, 1. to 3.;
2. meet the condition referred to in § 1, 4., or which are regularly and sufficiently updated and updated, in particular by adding new press articles.

§ 4. The reduced rate does not apply to digital publications as referred to in § 2, 1. to 10.

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).

Yes, the new rules were introduced with an effective date of 1 April 2019.



Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

Belgium applies both a reduced rate of 6% and a zero rate in relation to publications. Whereas books are subject to the reduced rate, newspaper and magazines as a main rule are subject to the zero rate, and would only fall within the scope of the reduced rate if they do not meet the conditions of the zero rate.

Newspapers and magazines subject to the zero rate need to meet several conditions, both positive and negative. Positive conditions essentially require the publication to address the general public (e.g. school newspapers would not qualify), not to serve mainly advertising purposes, the content to be protected by copyrights and subjected to certified editorial review; and to be published on a regular weekly basis. Negative conditions exclude certain content, some of them also follow from the positive list (e.g. price lists), others specifying publications that would otherwise meet the positive conditions (e.g. comic books).

The conditions are the same for publications in both paper and electronic format, with the exception for two form related ones. In case of electronic newspapers or magazines it is also possible to achieve the positive conditions of regular publishing, if new articles are added to the site. Furthermore, for obvious reasons the negative condition of using waste paper or cardboard is not applied to electronic newspapers or magazines.

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

Both in relation to the reduced rate and the zero rate content consisting of exclusively or mainly video content or listenable music is excluded from the scope. The legislation however does not specify the term "mainly", and currently there is no available public guidance in this regard either.

Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?

This is not clearly regulated in the legislation. The reduced and zero rate dominantly depends on the content, and the zero rate should be applicable to news websites being updated on a regular basis, as long as the content does not meet any of the negative conditions. Also, since the reduced rate applies to electronic newspapers or magazines not qualifying for the zero rate, other websites providing content of such nature (not exclusively or mainly advertisements, video or music content) but either not meeting the positive conditions of the zero rate or fall within the scope of one of the negative conditions, should be subject to the reduced rate.

Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

Taking into account that one of the conditions for the zero rate is regularity, loose articles should be out of scope of these provisions.



Ireland

Text of the legislation³

Value-Added Tax Consolidation Act 2010

Schedule 3 Part 2

7A. Electronic publications being books, newspapers and periodicals, supplied electronically, but excluding electronic publications which wholly or predominantly are devoted to advertising, or consist wholly or predominantly of audible music or video content.

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).

Ireland applies a special temporary reduced VAT rate of 9% to printed newspaper and periodicals (Schedule 3 Part 2 point 7 (a) of the VAT Act). The reduced VAT rate of 13.5% is applied to brochures, leaflets and programmes; catalogues (including directories) and similar printed matter; maps, hydrographic and similar charts; and to printed music other than in book or booklet form (Schedule 3 Part 2 points 7 (b)-(e) of the VAT Act). Finally, the zero rate is applied to printed books and booklets (including atlases) with certain exceptions such as albums or check books (Schedule 2 Part 2 point 9 of the VAT Act).

Effective from 1 January 2019, Ireland has introduced the special temporary reduced VAT rate of 9% for electronic publications.

Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

The provision included in Schedule 3 Part 2 point 7A. mirror the provisions of the VAT Directive. Consequently, no definition is provided for books, newspapers and periodicals, suggesting that the everyday meaning should be applied. The provisions apply negative conditions, excluding electronic publications the content of which is dominantly advertising, audio or video content. Compared to these rules, rules on paper based publications are more elaborate, as indicated in the previous point.

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

The VAT Act uses the terms "wholly or predominantly" just like the VAT Directive, without providing any specific guidance about how these should be understood.

³ For the official text see <http://revisedacts.lawreform.ie/eli/2010/act/31/schedule/3/revised/en/html> (last accessed 9 June 2019)



Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?

The provisions of the VAT Act do not specify the exact method how electronic newspapers or periodicals should be made accessible, however nothing suggest that such websites would be out of scope of these rules.

Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

This question is not specified either by the legal provisions. Arguably loose articles would not fall within the everyday meaning of newspapers or periodicals, therefore should be out of scope of the reduced VAT rate.



Germany

Text of the legislation (unofficial translation)⁴

VAT Act

Annex 2

49. Books, newspapers and other printed products (excluding material listed as unsuitable for the youth and publications mainly intended for advertising purposes including for travelling), namely
- printed books, brochures and similar printed material in different formats, including loose-leaf and second-hand material, excluding such for advertising purposes (Customs Tariff, from Nos. 49.01, 97.05 and 97.06);
 - newspapers and other periodicals, whether or not illustrated or including advertising (Customs Tariff, from No. 49.02);
 - children's picture and painting books whether in paper backs, boards or bound (Customs Tariff, from No. 49.03);
 - music, whether in printed or manuscript form and whether or not bound or illustrated (Customs Tariff, from No. 49.04);
 - maps, charts and plans which are printed, including world and celestial globes (Customs Tariff, from No. 49.05);
 - postage and similar stamps such as stamp-postmarks, stamp-impressed paper, franked envelopes, i.e. collection pieces (Customs Tariff, from No. 49.07 and from No. 97.04)

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the "may" clause in the Directive).

Germany applies a reduced VAT rate of 7% to printed publications. To this date Germany has yet to introduce any rules concerning e-publications, and no public information is available on any pending bills in this regard.

Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

N/A

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

N/A

⁴ For official text see: https://www.gesetze-im-internet.de/ustg_1980/anlage_2.html (last accessed 13 June 2019)



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*Is the lower VAT rate also applied to granting access to websites with news or other editorial content?
If so, to what extent?*

N/A

*Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under
the lower VAT rate?*

N/A

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Finland

Text of the legislation (unofficial translation)⁵

Value Added Tax Act

Section 85a

(7) a book on a physical medium or handed over electronically;

(8) newspapers and magazines on a physical medium or electronically released;

The following shall not be regarded as the publication referred to in subsections (7) and (8) of subsection 1:

1) a publication containing mainly advertisements; or

2) a publication containing mainly video content or music to be listened to.

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).

Yes, the reduced VAT rate of 10% has been implemented to electronic publications with an effective date of 1 July 2019.

Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

The provisions of the VAT Act do not contain detailed criteria for the application of the reduced VAT rate, apart from listing the types of publications (books, newspapers and magazines). As the Finance Committee Report⁶ also points out, neither the VAT Directive or the VAT Act provide a definition for these publications, therefore the definitions of other domestic regulations could be used as a reference. As for newspapers and magazines the official explanations provided in connection with the law proposal (‘Explanatory Note’)⁷ suggest using the definition of the Act on Freedom of Expression, according to which a periodical publication is scheduled to be published on a regular basis at least four times a year, and there is editorial supervision regarding the content. Books are to be understood in the

⁵ For official text see: <http://www.finlex.fi/fi/laki/ajantasa/1993/19931501> (last accessed 13 June 2019), <http://www.finlex.fi/fi/laki/alkup/2019/20190345> (last accessed 13 June 2019)

⁶ See https://www.eduskunta.fi/FI/vaski/Mietinto/Sivut/VaVM_33+2018.aspx (last accessed 13 June 2019)

⁷ See https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_303+2018.pdf (last accessed 13 June 2019)



everyday meaning of the term, i.e. books are published under the name of one or multiple authors and are also subject to editorial supervision.

The VAT Act applies the same criteria regarding publications in paper or electronic format. This is also confirmed by the intention of the legislator, with the Finance Committee Report stating that VAT on the distribution of digital media content should be the same as on the distribution of printed media content.

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

The VAT Act excludes publications consisting mainly of video or music content from the scope of reduced rate. This is repeated by the Explanatory Note according to which books, newspapers and magazines may contain text, sound, images and moving images, however if the content mainly consists of audio or video, it should rather be classified as a broadcast.

Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?

According to the Explanatory Note the reduced rate applies also to paid services granting access to online publications for the subscription period.

Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

The Explanatory Note also mentions that the sale of online published articles is also covered by the scope of the reduced rate.



France

Text of the legislation (unofficial translation)

VAT Act

Article 278-0 bis⁸

VAT is charged at the reduced rate of 5.5 % on:

A. - the purchase, importation, intra-Community acquisition, sale, supply, commission, brokerage or manufacture of

3. Books and including the rental thereof. This point 3° applies to books on any type of physical medium and including those supplied by downloading.

Article 298 septies⁹

As from 1 January 1989, sales, commissions and brokerage fees involving publications which meet the conditions specified in articles [72 and 73 of Annex III](#) to this code taken in application of article 52 of the Law of 28 February 1934, are subject to VAT at the rate of 2.1% in the departments of Metropolitan France and at the rate of 1.05% in the departments of Guadeloupe, Martinique and Réunion.

Also subject to the same rates of VAT are sales, commissions and brokerage fees relating to digitized versions of a publication mentioned in the first paragraph of this article and to online press services recognised as such in accordance with [article 1](#) of Law No 86-897 of 1 August 1986 on reform of the legal framework of the press.

When these services are part of a package, which may or may not include several other packages, which covers access to an electronic communication network specified in 2° of article L. 32 of the Electronic Communication and Post Code or to terminal equipment specified in 10o of the same article L. 32 or the provision of television services specified in article 2 of Law no 86-1067 of 30 September 1986 regarding freedom of communication, the reduced rate is applicable to the additional price paid by the customer with respect to an identical package, but not including all or some of these services, marketed under comparable conditions. Where applicable, this taxation base is increased by that established for the application of the reduced rate to this other package.

In the absence of any other package, the reduced rate applies to the sums paid by each customer for the acquisition of these services, net of costs for provision to the public paid by press editors to the service

⁸ For original text see:

<https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006191654&cidTexte=LEGITEXT00006069577&dateTexte=20190615> (last accessed 15 June 2019)

⁹ For original text see:

<https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006179663&cidTexte=LEGITEXT00006069577&dateTexte=20190615> (last accessed 15 June 2019)



provider, where applicable limited by the price at which these services are otherwise marketed by the provider.

VAT Act Annex III¹⁰

Article 72

Newspapers and periodicals with a direct link to the news, assessed with regard to the purpose of the publication and presenting a significant editorial contribution, benefit from the tax benefits provided for in Article 298f of the French Tax Code shall meet the following conditions:

1. To have a character of general interest as regards the diffusion of thought: instruction, education, information, recreation of the public;
- 2 ° Satisfy the obligations of the law of 29 July 1881 on the freedom of the press, in particular:
 - (a) Indicate the name and address of the printer (these indications must relate to the printer who actually prints the publication);
 - (b) Have a director of the publication whose name is printed on all copies.
- 3 ° To appear regularly at least once a quarter without there being a gap of more than four months between two publications;
- 4 ° Be the subject of an actual sale to the public, by number or by subscription, at a marked price having a real link with the costs, without the delivery of the newspaper or periodical being considered accompanied by the free or paid goods or services unrelated to the main purpose of the publication. A joint order of the Minister in charge of the budget, the Minister in charge of the communication and the Minister in charge of the posts shall specify, as necessary, the modes of application of this provision;
- 5 ° Not to have more than two thirds of their space devoted to announcements classified as advertising or legal and judicial announcements, without these exceeding half of the total space;
6. Not to be assimilated, despite the appearance of newspapers or magazines that they could present, into any of the publications referred to under the following categories:
 - (a) Sheets, leaflets, guides, prospectuses, catalogs, almanacs, directories, indexes, lexicons;
 - (b) Works published by delivery and whose publication covers a limited period of time or which supplements or updates works already published; however, this supplement or update may benefit from the tax advantages for the party who, during a year, does not increase the number of pages included in the book as at December 31 of the previous year;
 - (c) Publications whose main object is the research or development of transactions in commercial, industrial, banking, insurance or other undertakings of which they are, in fact, advertising or communication instruments or which appear to be being the accessory of a commercial or industrial activity;
 - (d) Publications whose main object is the publication of timetables, programs, models, plans or drawings, or quotations, with the exception of publications whose essential purpose is the insertion of information for broadcasting programs and television, and securities ratings;
 - (e) Publications whose main purpose is to provide information on the internal life of a group, irrespective of its legal form, or constituting an instrument of advertising or propaganda for it;

¹⁰ For original text see:

https://www.legifrance.gouv.fr/affichCode.do;jsessionid=D6BCDE6FCE01945F1A9E04F53B5AA229.tplgfr31s_1?idSectionTA=LEGISCTA000006191404&cidTexte=LEGITEXT000006069574&dateTexte=20190615 (last accessed: 15 June 2019)



- (f) Publications whose price is included in an assessment to an association or group;
- 7 ° For supplements, special or non-serial issues of newspapers or periodicals, in addition, shall meet the following conditions::
- (a) The supplement must satisfy the same substantive and formal requirements as the main publication and bear the mention "supplement" followed by an indication of the title and the date or number of the publication to which it relates. For the purposes of this section, a supplement to a newspaper or periodical shall be deemed to be any detached publication which appears periodically or as an addition due to the abundance of subject matter or which is intended to supplement or illustrate the text of a publication. The supplement cannot be sold separately or as a separate subscription;
 - (b) Special or non-serial issues must meet the same substantive and formal requirements as the main publication and bear the words "special number" or "special issue". However, in the limit of one issue per year for quarterly publications and two issues per year for publications appearing at shorter intervals, the special or non-serial issue may be devoted to a single theme, provided that the subject dealt with has a clear link to the usual content of the main publication. For the purposes of this section, any special publication or non-serial issue of a newspaper or periodical shall mean any publication offered to the public outside the normal publication, on the occasion of an event or an important incidence.
- 8 ° Not be likely to shock the reader by a degrading representation of the human person that undermines his or her dignity and decency or that presents violence in a positive light.

Article 73

Subject to the provisions of paragraphs 1 °, 2 ° and 3 ° of article 72 , to not falling within any of the categories mentioned listed in points a, b, c, d and e of paragraph 6 ° of this same article and provided that they are related to an actuality and that public announcements and advertisements do not exceed 20% of the total space, the following publications can benefit from the tax advantages granted in article 298 septies of the general code of the taxes:

- 1 ° Publications of veterans, mutilated or victims of war;
- 2 ° Professional information publications published by representative trade unions of employees;
- 3 ° Publications whose essential object is to promote an action or a political philosophy, which are not published by or on behalf of a legal entity of public law;
- 4 ° The publications published by the mutual societies governed by the code of mutuality as well as those published by groups constituted and operating in accordance with the said code;
- 5 ° Publications, whether national or international, published by non-profit organizations and whose purpose is to contribute, by manifestly disinterested, to fight by actions or programs, against the attacks or serious threats to dignity, to health and human life, provided that it is intended for a broad and diverse audience and that it requires the support of the reader;
- 6 ° School newspapers published or printed, under the direction and responsibility of teachers or teachers, for the purpose of educating children and providing information on the life and work of the school parents and schools corresponding.

Law No 86-897 of 1 August 1986 on reform of the legal framework of the press ('Act on Press')¹¹

¹¹ For original text see: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000687451> (last accessed 15 June 2019)



Article 1

For the purposes of this Law, the term "press publication" means any service using a written mode of dissemination of thought available to the public in general or categories of public and appearing at regular intervals.

An online press service is any online public communication service professionally edited by a natural or legal person who has editorial control of its content, consisting of the production and making available to the public original content, of general interest, updated regularly, consisting of information related to the news and the subject to a journalistic treatment, which does not constitute a promotional tool or an accessory of an activity industrial or commercial.

A decree specifies the conditions under which an online press service may be recognized, in particular in order to benefit from the advantages attached to it. For online press services of a political and general information nature, this recognition implies the regular employment of at least one professional journalist within the meaning of Article L. 7111-3 of the Labor Code.

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the "may" clause in the Directive).

Yes, France applies the reduced VAT rate of 5.5% to books made available on any medium and a special reduced rate of 2.1% to qualifying press publications such as newspapers or magazines including those in electronic format.

Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

The conditions for the reduced VAT rate are essentially the same for both paper-based and electronic publications. For books the VAT Act does not provide detailed rules¹², however regarding newspapers and magazines a significant list of conditions need to be met. Some of these conditions are positive conditions (e.g. topic needs to be of general interest, editorial control, at least quarterly periodicity), while others are negative conditions (e.g. the ratio of advertisements, excluded content).

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

The conditions do not refer to video or music content. The reason for this is that France has extended the reduced VAT rate to electronic publications before the amendment of the VAT Directive was

¹² Although the tax authority published a guidance in relation to books subject to the reduced VAT rate. According to the guidance a book, digital, or on physical medium, aims to reproduce and represent a work of the mind created by one or more authors, consisting of graphic elements (texts, illustrations, drawings, etc.) published under a title. A digital book differs from a printed book only by a few necessary elements inherent to this format. For more see <http://bofip.impots.gouv.fr/bofip/1437-PGP.html> (last accessed 24 June 2019)



adopted, therefore the provisions of the French VAT Act do not completely follow the logic of the European rules.

Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?

Yes, the VAT Act extends the scope of the reduced VAT rate to online press services, which are defined in the Act on Press. The conditions to qualify as such are essentially that the content needs to be:

- of general interest;
- original;
- regularly updated;
- related to news; and
- be the result of journalistic work (at least one professional journalist must be employed).

Content which is of promotional nature or is connected to an industrial or commercial activity is excluded from the reduced VAT rate.

Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

Taking into account that one of the conditions established by Annex III of the VAT Act relating to newspapers and periodicals is that those should be published on a regular basis, it would seem that standalone articles would not qualify for the special reduced VAT rate.



Luxembourg

Text of the legislation (unofficial translation)¹³

VAT Act Appendix B

5. Books, newspapers and periodicals, delivered on physical media or electronically, or both. Excluded are publications consisting entirely or predominantly of advertisement, publications consisting entirely or predominantly of video content or music and publications consisting wholly or predominantly of pornographic content.

17. The loan of publications by libraries benefitting from the super reduced rate according to point 5.

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).

As of 1 May 2019 Luxembourg has introduced a super reduced rate of 3% on electronic publications.

Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

The provision included in the VAT Act mirror the provisions of the VAT Directive. Consequently, no definition is provided for books, newspapers and periodicals, suggesting that the everyday meaning should be applied. The provisions apply negative conditions, excluding electronic publications the content of which is dominantly advertising, audio, video or pornographic content. The criteria of the law apply equally to paper based and electronic publications. The explanatory notes of Circular 793 of 17 May 2019 (‘Explanatory Notes’) list in connection with paper-based publications the respective combined nomenclature codes (for books CN 4901 and CN 9706, for newspapers and periodicals CN 4902), and highlight that electronic publications qualify as electronically supplied services, therefore tariff classification does not apply to those.

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

Publications consisting entirely or predominantly of video or music content are excluded from the scope of the reduced VAT rate. The VAT Act does not define the terms “entirely or predominantly”, but in the Explanatory Notes the purpose of this provision is clarified. Accordingly, aligning the VAT rate for paper-based and electronic publications only makes sense if these essentially reproduce the same information. Consequently, video and music content is allowed only to the extent where it is not of decisive importance for the consumer, and does not constitute an end in itself.

¹³ For official text see: <http://www.aed.public.lu/actualites/2019/05/Circulaire793/Circulaire-793.pdf> (last accessed 13 June 2019)



Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?

In this regard neither the provisions of the VAT Act or the Explanatory Notes provide specific instructions. Appendix B Point 17 of the VAT Act extends the reduced rate also to the rental of publications by libraries. In this regard the Explanatory note mentions that this provision does not only apply to situations when electronic publications are made available in libraries, but also to subscriptions granting access to such publications. From the Explanatory Notes it is however unclear whether only a library may offer such subscription or other entities as well.

Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

In this regard neither the provisions of the VAT Act or the Explanatory Notes provide specific instructions. If the above mentioned Appendix B Point 17 of the VAT Act can be interpreted as covering not only libraries, it could be argued that loose articles may also be within its scope.



United Kingdom

Text of the legislation (unofficial translation)

N/A

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).

Currently, paper-based publications are subject to a zero VAT rate according to section 30 and Schedule 8 Group 3 of the VAT Act 1994. VAT Notice 701/10¹⁴ discusses the interpretation of the rules concerning such publications. Point 2 of the Notice specifically mentions that electronic publications are subject to the standard VAT rate.

Currently, the legislative changes proposed in relation to VAT in the Budget 2018 do not include any changes relating to electronic publications¹⁵.

Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

N/A

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

N/A

Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?

N/A

Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

N/A

¹⁴ See <https://www.gov.uk/guidance/zero-rating-books-and-printed-matter-for-vat-notice-70110#items-not-included-within-any-of-the-group-3-items> (last accessed: 9 June 2019)

¹⁵ See <https://www.gov.uk/government/publications/budget-2018-overview-of-tax-legislation-and-rates-ootlar/budget-2018-overview-of-tax-legislation-and-rates-ootlar> (last accessed: 9 June 2019)



Sweden

Text of the legislation (unofficial translation)¹⁶

VAT Act

Chapter 7

Article 1 (from 1 July 2019)

The tax is levied at 6 percent of the taxable amount for

1. sales, intra-Community acquisitions and imports of the following goods, unless otherwise indicated in Chapter 3, Articles 13 and 14, on the condition that the goods are not completely or principally devoted to commercial advertising:
 - books, brochures, binders and similar products, even in the form of single pages,
 - newspapers and magazines,
 - picture books, sketch books and colouring books for children,
 - note sheets, and
 - maps, including atlases, road maps and topographical maps,
2. sales, intra-Community acquisitions and import of programs and catalogues for operations as indicated in 6, 7, 8 or 11 as well as sales other than for one's own enterprise, intra-Community acquisitions and import of programs and catalogues for enterprises as indicated in Chapter 3, Article 18, on the condition that the programs and catalogues are not completely or principally devoted to commercial advertising,
3. sales of radio newspapers as well as sales, intra-Community acquisitions and imports of cassette newspapers, unless something follows pursuant to Chapter 3, Article 17, and of cassettes or any other technical medium which reproduces the reading of the content of a good encompassed by (1),
4. sales, intra-Community acquisitions and import of a good which through sign language, Braille or other such methods of rendering script or other information available particularly to those with reading disabilities, if not otherwise indicated in Chapter 3, 4 §,
5. sale of products referred to in 1-4, if they
 - a) is provided electronically,
 - b) is not wholly or mainly dedicated to advertising; and
 - c) not wholly or mainly consists of moving picture or audible music,
6. access to concerts, circus, cinema, theatre, opera or ballet performances or other comparable performances,
7. services as indicated in Chapter 3, Article 11 (2) and (4) if the enterprise is not run by nor is it to more than a negligible scope supported by the state,

¹⁶ For official text see:

<https://www.regeringen.se/49492f/contentassets/8b03e62e27f54c1dba32fbca619b3531/extra-andringsbudget-for-2019--sankt-mervardesskatt-pa-elektroniska-publikationer-prop.-20181973.pdf> (last accessed: 17 June 2019)

Note: parts left out with [...] do not relate to publications



8. access to and tours of zoos tours of nature conservation areas outside of built-up areas and tours of national parks, nature reserves, national city parks and Natura 2000 areas,
9. letting or transferring of rights which are encompassed by Article 1, 4 or 5 of Swedish Copyright Legislation (SFS 1960:729) regarding literary and artistic work, however not when it is a matter of photographs, advertising pieces, systems and programs for automatic data processing or films, videograms or other comparable recording pertaining to information,
10. [...]
11. sales of services within the field of athletics as indicated in Chapter 3, Article 11(a), first paragraph and which are not exempt from taxation according to the second paragraph of the same clause, and
12. [...]

Questions and answers

Is the lower VAT rate already applied on the electronic delivery of books, newspapers and magazines, or is it the intention to bringing these under the lower VAT rate (in line with the “may” clause in the Directive).

Currently there is a proposal in place to introduce a reduced VAT rate of 6% regarding electronic publications. If adopted, the new rules will apply from 1 July 2019.

Which criteria are used to demarcate the application of the lower rate for electronic books, newspapers and magazines, and are these in line with the criteria used for physical publications?

The proposed provisions of the VAT Act do not provide guidance regarding the conditions publications need to meet to qualify for the reduced VAT rate (besides excluding publications wholly or mainly dedicated to advertising and wholly or mainly consists of moving picture or audible music). The explanatory notes provided together with the proposal also reflect on this fact, emphasizing that in the view of the legislator giving a definition would carry the risk of the definition becoming quickly outdated. Consequently, the legislator suggests a case by case assessment by the authorities applying the law, where it should be determined whether the use of the electronic publication corresponds to the use of the printed counterpart from the perspective of the average user. The explanatory notes also mention that for the purpose of the exclusions it should be investigated separately whether the publication is dedicated wholly or mainly to advertising, and whether it wholly or mainly consists of moving pictures or audible music. Finally, the legislator highlights that the fact that products have the same purpose does not necessarily mean that they have the same use as well, providing films on history as an example which have the same purpose as books on history, but their use is different.

To what extent are video content and music allowed in electronic publications falling under the lower VAT-rate, are there limitations and what are the conditions to determine whether these conditions are met?

As mentioned in the previous point, electronic publications are subject to the reduced VAT rate if these essentially correspond to the same use as their printed counterpart from the perspective of an average user. If the main feature of the content is the moving picture or the music, then the text only serves the better enjoyment of the moving picture or music content, and the reduced VAT rate cannot be applied. It should also be mentioned that the proposed wording of the VAT Act applies the term moving picture instead of video as in the view of the legislator former is a more precise term.

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Is the lower VAT rate also applied to granting access to websites with news or other editorial content? If so, to what extent?

The proposed wording of the VAT Act does not specify this, but the explanatory notes discuss electronic newspapers and magazines as a service granting access to regularly updated editorial content.

Do deliveries of loose articles from electronic newspapers and magazines (unbundled) also fall under the lower VAT rate?

Neither the wording of the proposal or the explanatory notes give clear guidance in this regard. In case of printed products also single page documents (consisting mainly of text and intended for reading) are covered by the scope of the reduced VAT rate, therefore it could be argued that the electronic version of these publications would also be subject to the same rate.



NEDERLANDSE VERTALING

Achtergrond

Op 6 november 2018 heeft de Raad van de Europese Unie Richtlijn (EU) 2018/1713 van de Raad tot wijziging van Richtlijn 2006/112/EG, wat btw-tarieven op boeken, kranten en tijdschriften betreft aangenomen. Deze wijziging had tot doel om de lidstaten in staat te stellen de btw-tarieven die zij toepassen op fysieke en elektronische publicaties met elkaar in overeenstemming te brengen.

Waar fysieke publicaties voor btw-doeleinden behandeld worden als goederen, vallen elektronische publicaties in de categorie van langs elektronische weg verrichte diensten. Richtlijn 2006/112/EG (de btw-richtlijn) geeft geen definitie van langs elektronische weg verrichte diensten, maar verschaft een indicatieve lijst van voorbeelden in bijlage II. Uitvoeringsverordening (EU) 282/2011 van de Raad (de uitvoeringsverordening) geeft een algemene definitie van langs elektronische weg verrichte diensten in artikel 7 en verwijst naar bijlage I van de uitvoeringsverordening voor verdere voorbeelden. In bijlage I(3)(c) worden elektronische publicaties specifiek genoemd als langs elektronische weg verrichte diensten.

Bovengenoemde classificatie van elektronische publicaties is relevant omdat vóór het aannemen van de nieuwe regels alle langs elektronische weg verrichte diensten buiten het toepassingsbereik van de verlaagde btw-tarieven vielen volgens artikel 98(2) van de btw-richtlijn.¹⁷ Het nieuwe artikel 98(2) voorziet echter in een uitzondering op deze algemene regel voor langs elektronische weg verrichte diensten genoemd onder punt (6) van bijlage III van de btw-richtlijn, zijnde:

*“levering, ook bij uitlening door bibliotheken, van **boeken, kranten en tijdschriften**, ofwel op fysieke dragers of **langs elektronische weg**, of op beide wijzen (met inbegrip van brochures, folders en soortgelijk drukwerk, albums, platen-, teken- en kleurboeken voor kinderen, gedrukte of geschreven muziekpartituren, landkaarten en hydrografische en soortgelijke kaarten), voor zover niet uitsluitend of hoofdzakelijk bestaand uit reclamemateriaal of uit video-inhoud of beluisterbare muziek”*

In preambule (6) onderstreept Richtlijn (EU) 2018/1713 ook dat de invoering van een verlaagd btw-tarief voor elektronische publicaties een keuze is van de lidstaten. Derhalve mogen lidstaten besluiten geen verlaagd btw-tarief toe te passen op publicaties in het algemeen of zelfs de toepassing van het verlaagde btw-tarief op uitsluitend papieren publicaties voort te zetten (onder voorbehoud van een objectieve rechtvaardiging).

¹⁷ Tevens moet worden opgemerkt dat bepaalde lidstaten sterk verlaagde tarieven of nultarieven toepassen op papieren publicaties. De nieuwe regels nemen deze afwijkingen mee in het nieuw toegevoegde artikel 99(3).



Samenvatting

	Belgie	Ierland	Duitsland	Finland
Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?	Ja	Ja	Nee	Ja
Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?	Gedetailleerde regels gegeven	Geen gedetailleerde regels Geen leidraad	N.v.t.	Geen gedetailleerde regels Interpretatie beschikbaar
In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?	Geen gedetailleerde regels	Geen gedetailleerde regels Geen leidraad	N.v.t.	Geen gedetailleerde regels Interpretatie beschikbaar
Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?	Geen gedetailleerde regels Ja, gebaseerd op context	Geen gedetailleerde regels Geen leidraad	N.v.t.	Geen gedetailleerde regels Ja, interpretatie beschikbaar
Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?	Geen gedetailleerde regels Nee, gebaseerd op context	Geen gedetailleerde regels Geen leidraad	N.v.t.	Geen gedetailleerde regels Ja, interpretatie beschikbaar



	Frankrijk	Luxemburg	Verenigd Koninkrijk	Zweden
Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?	Ja	Ja	Nee	Ja
Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?	Gedetailleerde regels voor kranten en tijdschriften	Geen gedetailleerde regels	N.v.t.	Geen gedetailleerde regels Beperkte leidraad gegeven
In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?	Geen beperking in de wet	Geen gedetailleerde regels Beperkte leidraad gegeven	N.v.t.	Geen gedetailleerde regels Beperkte leidraad gegeven
Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?	Ja, criteria gegeven in de wet	Geen gedetailleerde regels Mogelijk vallend onder verlaagd btw-tarief afhankelijk van interpretatie	N.v.t.	Geen gedetailleerde regels Ja, gebaseerd op verstrekte leidraad
Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?	Geen gedetailleerde regels, context van de wet suggereert dat verlaagd btw-tarief niet van toepassing is	Geen gedetailleerde regels Mogelijk vallend onder verlaagd btw-tarief afhankelijk van interpretatie	N.v.t.	Geen gedetailleerde regels Mogelijk vallend onder verlaagd btw-tarief afhankelijk van interpretatie



België

Tekst van de wet (niet-officiële vertaling)¹⁸

Royal Decree No. 20 of 20 July 1970 fixing the rates of value added tax and classifying the goods and services at those rates

Annex, Table A Section XIX. Newspapers, magazines and books

The reduced rate applies to:

1. books, brochures, leaflets and similar publications, including atlases;
2. newspapers and magazines, whether or not illustrated, to which the reduced rate of 0% referred to in Table C, section I, does not apply;
3. picture albums, picture books, drawing books and coloring books for children;
4. musical scores, whether or not illustrated.

The reduced rate applies to the publications referred to in the first paragraph, regardless of the manner in which they are made available to the reader, in particular:

1. on paper or cardboard, or on any other physical medium;
2. electronically.

The following are excluded from this section: publications that

1. consist exclusively or mainly of advertising material;
2. consist exclusively or mainly of video content or listenable music.

Annex, Table C

Goods and services subject to the rate of 0%.

I. Periodic publications

§ 1. The reduced rate applies to printed periodic publications that:

1. are intended for the general public, taking into account the nature of the themes and the way in which they are dealt with;
2. do not consist exclusively or mainly of advertising material;
3. that comprise a coherent whole of press articles that:
 - a) are protected by copyright;
 - b) were written and compiled under the final responsibility of a professional editorial staff composed mainly of journalists who:
 - are entitled to use the title of professional journalist referred to in the law of 30 December 1963 on the recognition and protection of the title of professional journalist or who are

¹⁸ Oorspronkelijke tekst in het Nederlands; zie <http://www.ejustice.just.fgov.be/eli/wet/2019/04/13/2019041002/staatsblad> (website laatst bezocht op 12 juni 2019).



entitled to use the title of professional journalist referred to in the Royal Decree of 12 April 1965 establishing identification documents and markings for the members of the periodical press for specialized information, if it concerns Belgian periodical publications;

– be accredited as professional journalists, if it concerns periodical publications abroad;

4. appear:

- a) without limitation in duration;
- b) at regular, predetermined intervals;
- c) at least forty-eight times a year;
- d) under a common name;
- e) with the clear characteristics of their periodicity.

§ 2. The reduced rate does not apply to the following categories of printed periodical publications:

1. publications that mainly contain a complete novel, story or work of any nature or episodes of such works, either in the form of a or unlighted text, either in the form of a cartoon with short or unwritten or signed text;
2. the books published in episodes, the appearance of which occupies a limited space of time or which form an addition or an update to works already published;
3. the advertising sheets, prospectuses, catalogs, almanacs, price lists, price lists, ship messages, notarial messages, timetables;
4. the specialized publications for professional use;
5. the publications that only contain thinking games;
6. publications that are published under the name of an industrial, financial, commercial or other enterprise, even if they only contain texts or illustrations of general interest without direct advertising;
7. publications whose main purpose is to look up, maintain and extend agreements for the benefit of industrial, financial, commercial or other companies and which are only a means of publicity for companies;
8. the publications that are the subject of a delivery, an intra-Community acquisition or an import after the expiry of the one-year period from the date of publication;
9. the publications that are united in complete or incomplete collections, in one volume, or in periodical or non-periodic albums;
10. the publications that exclusively or mainly consist of video content or listenable music;
11. the publications that are sold as waste paper or cardboard.

§ 3. The reduced rate applies to digital publications that:

1. meet the conditions referred to in § 1, 1. to 3.;
2. meet the condition referred to in § 1, 4., or which are regularly and sufficiently updated and updated, in particular by adding new press articles.

§ 4. The reduced rate does not apply to digital publications as referred to in § 2, 1. to 10.



Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Ja, de nieuwe regels zijn ingegaan op 1 april 2019.

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

België hanteert zowel een verlaagd tarief van 6% als een nultarief met betrekking tot publicaties. Terwijl boeken onder het verlaagde tarief vallen, geldt voor kranten en tijdschriften in het algemeen het nultarief en zouden deze alleen binnen het toepassingsbereik van het verlaagde tarief vallen wanneer zij niet aan de voorwaarden voor het nultarief voldoen.

Kranten en tijdschriften die onder het nultarief vallen moeten aan enkele voorwaarden voldoen, zowel in negatieve als in positieve zin. De voornaamste positieve voorwaarden zijn dat de publicatie bestemd moet zijn voor een algemeen publiek (schoolkranten zouden hier bijvoorbeeld niet aan voldoen) en niet hoofdzakelijk voor advertentiedoeleinden gemaakt moet zijn; dat de inhoud beschermd moet zijn door auteursrechten en onder verantwoordelijkheid moet staan van een professionele redactie; en dat de uitgave regelmatig, minimaal wekelijks, moet verschijnen. De wet bevat een gedetailleerde lijst van publicaties die zijn uitgesloten van het verlaagde tarief; in sommige gevallen volgt dit uit de positieve lijst (bijvoorbeeld prijslijsten die voornamelijk gericht zijn op advertenties), in andere gevallen worden specifieke publicaties genoemd die overigens aan de positieve voorwaarden zouden voldoen (bijvoorbeeld stripboeken).

De voorwaarden zijn gelijk voor zowel papieren als elektronische publicaties, met uitzondering van twee vormgerelateerde gevallen. Voor elektronische kranten of tijdschriften is het ook mogelijk om aan de positieve voorwaarden te voldoen van regelmatige verschijning als nieuwe artikelen aan de website worden toegevoegd. Verder is de negatieve voorwaarde van de verkoop als oud papier of karton om voor de hand liggende redenen niet van toepassing op elektronische kranten of tijdschriften.

In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

Met betrekking tot zowel het verlaagde als het nultarief valt inhoud die bestaat uit uitsluitend of hoofdzakelijk videomateriaal of beluisterbare muziek buiten het toepassingsbereik van het verlaagde tarief. De wetgeving geeft echter geen nadere uitleg van de term “hoofdzakelijk” en er is op dit moment ook geen publieke leidraad die hierin voorziet.



Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

Dit is niet duidelijk geregeld in de wetgeving. Toepassing van het verlaagde tarief en het nultarief hangt overwegend af van de inhoud en het nultarief zou toepasbaar moeten zijn op websites die regelmatig worden geactualiseerd, zolang de inhoud niet is uitgesloten door vervulling van één van negatieve voorwaarden. Ook zouden andere websites die dergelijke inhoud aanbieden (d.w.z. niet uitsluitend of hoofdzakelijk advertenties, video of muziek), maar die ofwel niet voldoen aan de positieve voorwaarden voor toepassing van het nultarief, ofwel uitgesloten zijn door vervulling van één van de negatieve voorwaarden, onder het verlaagde tarief moeten vallen omdat het verlaagde tarief geldt voor elektronische kranten of tijdschriften die niet in aanmerking komen voor het nultarief.

Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

In aanmerking nemende dat regelmatige verschijning één van de voorwaarden voor toepassing van het nultarief is, zouden losse artikelen buiten de reikwijdte van deze regels moeten vallen.



Ierland

Tekst van de wet¹⁹

Value-Added Tax Consolidation Act 2010

Schedule 3 Part 2

7A. Electronic publications being books, newspapers and periodicals, supplied electronically, but excluding electronic publications which wholly or predominantly are devoted to advertising, or consist wholly or predominantly of audible music or video content.

Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Ierland heft btw tegen een bijzonder, tijdelijk, verlaagd tarief van 9% op gedrukte kranten en periodieken (schema 3 deel 2 punt 7(a) van de btw-wet). Het verlaagde btw-tarief van 13.5% is van toepassing op brochures, folders en programma's; catalogi (inclusief gidsen) en vergelijkbaar drukwerk; landkaarten, hydrografische kaarten en soortgelijke kaarten; en op bladmuziek voor zover niet in de vorm van een boek(je) (schema 3 deel 2 punt 7(b)-(e) van de btw-wet). Tenslotte wordt het nultarief toegepast op gedrukte boeken en boekjes (inclusief atlanten) met bepaalde uitzonderingen, zoals albums of chequeboekjes (schema 2 deel 2 punt 9 van de btw-wet).

Met ingang van 1 januari 2019 geldt in Ierland het bijzondere, tijdelijke, verlaagde btw-tarief van 9% voor elektronische publicaties.

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

De bepaling opgenomen in schema 3 deel 2 punt 7A weerspiegelt de bepalingen van de btw-richtlijn. Derhalve is er geen definitie beschikbaar van boeken, kranten en periodieken, hetgeen suggereert dat het spraakgebruik zou moeten worden gevolgd. De bepalingen hanteren negatieve voorwaarden die elektronische publicaties uitsluiten waarvan de inhoud overwegend bestaat uit advertenties, audio- of video-materiaal. In vergelijking met deze regels zijn de regels voor papieren publicaties meer uitgewerkt, zoals is aangegeven bij het vorige punt.

¹⁹ Zie voor de officiële tekst <http://revisedacts.lawreform.ie/eli/2010/act/31/schedule/3/revised/en/html> (laatst bezocht op 9 juni 2019).



In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

De btw-wet gebruikt de termen “uitsluitend of hoofdzakelijk” op dezelfde manier als de btw-richtlijn, zonder een specifieke leidraad te geven hoe deze termen zouden moeten worden geïnterpreteerd.

Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

De bepalingen van de btw-wet geven geen nadere aanwijzingen ten aanzien van de precieze wijze waarop elektronische kranten of periodieken toegankelijk zouden moeten worden gemaakt, maar er is niets dat erop wijst dat dergelijke websites buiten het toepassingsbereik van deze regels zouden vallen.

Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

Deze kwestie komt ook niet aan de orde in de wettelijke bepalingen. Het is aannemelijk dat losse artikelen in het spraakgebruik niet geschaard worden onder kranten of periodieken; derhalve zouden deze buiten het verlaagde btw-tarief moeten vallen.



Duitsland

Tekst van de wet (niet-officiële vertaling)²⁰

VAT Act

Annex 2

49. Books, newspapers and other printed products (excluding material listed as unsuitable for the youth and publications mainly intended for advertising purposes including for travelling), namely
- printed books, brochures and similar printed material in different formats, including loose-leaf and second-hand material, excluding such for advertising purposes (Customs Tariff, from Nos. 49.01, 97.05 and 97.06);
 - newspapers and other periodicals, whether or not illustrated or including advertising (Customs Tariff, from No. 49.02);
 - children's picture and painting books whether in paper backs, boards or bound (Customs Tariff, from No. 49.03);
 - music, whether in printed or manuscript form and whether or not bound or illustrated (Customs Tariff, from No. 49.04);
 - maps, charts and plans which are printed, including world and celestial globes (Customs Tariff, from No. 49.05);
 - postage and similar stamps such as stamp-postmarks, stamp-impressed paper, franked envelopes, i.e. collection pieces (Customs Tariff, from No. 49.07 and from No. 97.04)

Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Duitsland heft btw tegen een tarief van 7% op gedrukte publicaties. Tot nu toe heeft Duitsland nog geen regels ingevoerd met betrekking tot elektronische publicaties en er is geen openbare informatie beschikbaar over op handen zijnde wetgeving in dit verband.

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

Niet van toepassing.

²⁰ Zie voor de officiële tekst https://www.gesetze-im-internet.de/ustg_1980/anlage_2.html (laatst bezocht op 13 juni 2019).



In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

Niet van toepassing.

Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

Niet van toepassing.

Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

Niet van toepassing.



Finland

Tekst van de wet (niet-officiële vertaling)²¹

Value Added Tax Act

Section 85a

(7) a book on a physical medium or handed over electronically;

(8) newspapers and magazines on a physical medium or electronically released;

The following shall not be regarded as the publication referred to in subsections (7) and (8) of subsection 1:

1) a publication containing mainly advertisements; or

2) a publication containing mainly video content or music to be listened to.

Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Ja, het verlaagde btw-tarief van 10% is van kracht geworden op elektronische publicaties met ingang van 1 juli 2019.

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

De bepalingen in de btw-wet bevatten geen gedetailleerde criteria voor de toepassing van het verlaagde btw-tarief, afgezien van een opsomming van soorten publicaties (boeken, kranten en tijdschriften). Zoals het rapport van de financiële commissie²² aangeeft, biedt noch de btw-richtlijn noch de btw-wet een definitie van deze publicaties, dus zouden de definities uit andere nationale wetgeving als uitgangspunt genomen kunnen worden. Voor wat betreft kranten en tijdschriften adviseert de officiële toelichting bij het wetsvoorstel (“de toelichting”)²³ de definitie te hanteren van de

²¹ Zie voor de officiële tekst <http://www.finlex.fi/fi/laki/ajantasa/1993/19931501> (laatst bezocht op 13 juni 2019), <http://www.finlex.fi/fi/laki/alkup/2019/20190345> (laatst bezocht op 13 juni 2019).

²² Zie https://www.eduskunta.fi/FI/vaski/Mietinto/Sivut/VaVM_33+2018.aspx (laatst bezocht op 13 juni 2019).

²³ Zie https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_303+2018.pdf (laatst bezocht op 13 juni 2019). De Finse belastingdienst heeft onlangs ook een leidraad gepubliceerd voor e-publicaties die de tekst



wet op de vrijheid van meningsuiting, die stelt dat een periodieke uitgave op regelmatige basis, volgens planning, ten minste vier maal per jaar zou moeten verschijnen en dat er redactioneel toezicht moet zijn op de inhoud. Onder boeken moet worden verstaan de in het spraakgebruik gehanteerde betekenis van de term, dat wil zeggen dat boeken worden uitgegeven onder naam van een of meerdere auteurs en ook onder redactioneel toezicht staan.

De btw-wet hanteert voor publicaties op papier en in elektronische vorm dezelfde criteria. Dit komt overeen met de intentie van de wetgever zoals weergegeven in het rapport van de financiële commissie, dat stelt dat de btw op de verspreiding van digitale media-inhoud dezelfde moet zijn als die op de verspreiding van gedrukte media-inhoud.

In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

De btw-wet sluit publicaties die grotendeels bestaan uit bewegende beelden of muziek uit van het toepassingsbereik van het verlaagde tarief. Dit wordt herhaald in de toelichting, die stelt dat boeken, kranten en tijdschriften tekst, geluid, beeld en bewegend beeld mogen bevatten, maar dat er, wanneer de inhoud voornamelijk bestaat uit audio of video, eerder sprake is van uitzendingen.

Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

Volgens de toelichting is het verlaagde tarief ook van toepassing op betaalde diensten die toegang geven tot online publicaties voor een abonnementsperiode.

Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

De toelichting stelt dat de verkoop van online gepubliceerde artikelen eveneens valt binnen het toepassingsbereik van het verlaagde tarief.



Franrijk

Tekst van de wet (niet-officiële vertaling)

VAT Act

Article 278-0 bis²⁴

VAT is charged at the reduced rate of 5.5 % on:

A. - the purchase, importation, intra-Community acquisition, sale, supply, commission, brokerage or manufacture of

3. Books and including the rental thereof. This point 3° applies to books on any type of physical medium and including those supplied by downloading.

Article 298 septies²⁵

As from 1 January 1989, sales, commissions and brokerage fees involving publications which meet the conditions specified in articles [72 and 73 of Annex III](#) to this code taken in application of article 52 of the Law of 28 February 1934, are subject to VAT at the rate of 2.1% in the departments of Metropolitan France and at the rate of 1.05% in the departments of Guadeloupe, Martinique and Réunion.

Also subject to the same rates of VAT are sales, commissions and brokerage fees relating to digitized versions of a publication mentioned in the first paragraph of this article and to online press services recognised as such in accordance with [article 1](#) of Law No 86-897 of 1 August 1986 on reform of the legal framework of the press.

When these services are part of a package, which may or may not include several other packages, which covers access to an electronic communication network specified in 2° of article L. 32 of the Electronic Communication and Post Code or to terminal equipment specified in 10o of the same article L. 32 or the provision of television services specified in article 2 of Law no 86-1067 of 30 September 1986 regarding freedom of communication, the reduced rate is applicable to the additional price paid by the customer with respect to an identical package, but not including all or some of these services, marketed under comparable conditions. Where applicable, this taxation base is increased by that established for the application of the reduced rate to this other package.

²⁴ Zie voor de originele tekst

<https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006191654&cidTexte=LEGITEXT00006069577&dateTexte=20190615> (laatst bezocht op 15 juni 2019).

²⁵ Zie voor de originele tekst

<https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006179663&cidTexte=LEGITEXT00006069577&dateTexte=20190615> (laatst bezocht op 15 juni 2019).



In the absence of any other package, the reduced rate applies to the sums paid by each customer for the acquisition of these services, net of costs for provision to the public paid by press editors to the service provider, where applicable limited by the price at which these services are otherwise marketed by the provider.

VAT Act Annex III²⁶

Article 72

Newspapers and periodicals with a direct link to the news, assessed with regard to the purpose of the publication and presenting a significant editorial contribution, benefit from the tax benefits provided for in Article 298f of the French Tax Code shall meet the following conditions:

1. To have a character of general interest as regards the diffusion of thought: instruction, education, information, recreation of the public;
- 2 ° Satisfy the obligations of the law of 29 July 1881 on the freedom of the press, in particular:
 - (a) Indicate the name and address of the printer (these indications must relate to the printer who actually prints the publication);
 - (b) Have a director of the publication whose name is printed on all copies.
- 3 ° To appear regularly at least once a quarter without there being a gap of more than four months between two publications;
- 4 ° Be the subject of an actual sale to the public, by number or by subscription, at a marked price having a real link with the costs, without the delivery of the newspaper or periodical being considered accompanied by the free or paid goods or services unrelated to the main purpose of the publication. A joint order of the Minister in charge of the budget, the Minister in charge of the communication and the Minister in charge of the posts shall specify, as necessary, the modes of application of this provision;
- 5 ° Not to have more than two thirds of their space devoted to announcements classified as advertising or legal and judicial announcements, without these exceeding half of the total space;
6. Not to be assimilated, despite the appearance of newspapers or magazines that they could present, into any of the publications referred to under the following categories:
 - (a) Sheets, leaflets, guides, prospectuses, catalogs, almanacs, directories, indexes, lexicons;
 - (b) Works published by delivery and whose publication covers a limited period of time or which supplements or updates works already published; however, this supplement or update may benefit from the tax advantages for the party who, during a year, does not increase the number of pages included in the book as at December 31 of the previous year;
 - (c) Publications whose main object is the research or development of transactions in commercial, industrial, banking, insurance or other undertakings of which they are, in fact, advertising or communication instruments or which appear to be being the accessory of a commercial or industrial activity;

²⁶ Zie voor de originele tekst

https://www.legifrance.gouv.fr/affichCode.do;jsessionid=D6BCDE6FCE01945F1A9E04F53B5AA229.tplgfr31s_1?idSectionTA=LEGISCTA000006191404&cidTexte=LEGITEXT000006069574&dateTexte=20190615 (laatst bezocht op 15 juni 2019).



- (d) Publications whose main object is the publication of timetables, programs, models, plans or drawings, or quotations, with the exception of publications whose essential purpose is the insertion of information for broadcasting programs and television, and securities ratings;
 - (e) Publications whose main purpose is to provide information on the internal life of a group, irrespective of its legal form, or constituting an instrument of advertising or propaganda for it;
 - (f) Publications whose price is included in an assessment to an association or group;
- 7 ° For supplements, special or non-serial issues of newspapers or periodicals, in addition, shall meet the following conditions:
- (a) The supplement must satisfy the same substantive and formal requirements as the main publication and bear the mention "supplement" followed by an indication of the title and the date or number of the publication to which it relates. For the purposes of this section, a supplement to a newspaper or periodical shall be deemed to be any detached publication which appears periodically or as an addition due to the abundance of subject matter or which is intended to supplement or illustrate the text of a publication. The supplement cannot be sold separately or as a separate subscription;
 - (b) Special or non-serial issues must meet the same substantive and formal requirements as the main publication and bear the words "special number" or "special issue". However, in the limit of one issue per year for quarterly publications and two issues per year for publications appearing at shorter intervals, the special or non-serial issue may be devoted to a single theme, provided that the subject dealt with has a clear link to the usual content of the main publication. For the purposes of this section, any special publication or non-serial issue of a newspaper or periodical shall mean any publication offered to the public outside the normal publication, on the occasion of an event or an important incidence.
- 8 ° Not be likely to shock the reader by a degrading representation of the human person that undermines his or her dignity and decency or that presents violence in a positive light.

Article 73

Subject to the provisions of paragraphs 1 °, 2 ° and 3 ° of article 72, to not falling within any of the categories mentioned listed in points a, b, c, d and e of paragraph 6 ° of this same article and provided that they are related to an actuality and that public announcements and advertisements do not exceed 20% of the total space, the following publications can benefit from the tax advantages granted in article 298 septies of the general code of the taxes:

- 1 ° Publications of veterans, mutilated or victims of war;
- 2 ° Professional information publications published by representative trade unions of employees;
- 3 ° Publications whose essential object is to promote an action or a political philosophy, which are not published by or on behalf of a legal entity of public law;
- 4 ° The publications published by the mutual societies governed by the code of mutuality as well as those published by groups constituted and operating in accordance with the said code;
- 5 ° Publications, whether national or international, published by non-profit organizations and whose purpose is to contribute, by manifestly disinterested, to fight by actions or programs, against the attacks or serious threats to dignity, to health and human life, provided that it is intended for a broad and diverse audience and that it requires the support of the reader;



6 ° School newspapers published or printed, under the direction and responsibility of teachers or teachers, for the purpose of educating children and providing information on the life and work of the school parents and schools corresponding.

Law No 86-897 of 1 August 1986 on reform of the legal framework of the press ('Act on Press')²⁷

Article 1

For the purposes of this Law, the term "press publication" means any service using a written mode of dissemination of thought available to the public in general or categories of public and appearing at regular intervals.

An online press service is any online public communication service professionally edited by a natural or legal person who has editorial control of its content, consisting of the production and making available to the public original content, of general interest, updated regularly, consisting of information related to the news and the subject to a journalistic treatment, which does not constitute a promotional tool or an accessory of an activity industrial or commercial.

A decree specifies the conditions under which an online press service may be recognized, in particular in order to benefit from the advantages attached to it. For online press services of a political and general information nature, this recognition implies the regular employment of at least one professional journalist within the meaning of Article L. 7111-3 of the Labor Code.

Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Ja, Frankrijk past het verlaagde btw-tarief van 5.5% toe op boeken die op enig medium beschikbaar worden gesteld en een speciaal verlaagd tarief van 2.1% op daarvoor in aanmerking komende persuitgaven, zoals kranten of tijdschriften, ook als deze in elektronische vorm verschijnen.

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

De voorwaarden voor toepassing van het verlaagde btw-tarief zijn grotendeels gelijk voor zowel papieren als elektronische uitgaven. Voor boeken schrijft de btw-wet geen gedetailleerde regels voor,²⁸

²⁷ Zie voor de originele tekst <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000687451> (laatst bezocht op 15 juni 2019).

²⁸ Al heeft de belastingdienst wel een leidraad uitgegeven met betrekking tot boeken die onder het verlaagde btw-tarief vallen. Volgens deze leidraad heeft een boek, digitaal of op fysieke drager, tot doel het reproduceren en representeren van een product van de geest gecreëerd door één of meerdere auteurs, bestaat het uit grafische elementen (tekst, illustraties, tekeningen, etc.) en is het verschenen onder een titel. Een digitaal boek



maar kranten en tijdschriften moeten aan een aanzienlijke reeks voorwaarden voldoen. Sommige voorwaarden zijn positief (bijvoorbeeld onderwerpen voor een algemeen publiek, redactionele controle, verschijning tenminste eenmaal per kwartaal), andere negatief (bijvoorbeeld een hoog gehalte aan advertenties of uitgesloten inhoud).

In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

De voorwaarden hebben geen betrekking op muziek- of video-inhoud. De reden hiervoor is dat Frankrijk het verlaagde btw-tarief heeft uitgebreid tot elektronische publicaties voordat de wijziging van de btw-richtlijn was aangenomen. Daardoor volgen de bepalingen in de Franse btw-wet niet volledig de logica van de Europese regels.

Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

Ja, onder de btw-wet vallen online persdiensten, die worden gedefinieerd in de wet op de pers (wet 86-897), binnen het toepassingsbereik van het verlaagde btw-tarief. De belangrijkste voorwaarden waaraan moet worden voldaan zijn dat de inhoud:

- binnen het interesseveld van een algemeen publiek moet liggen;
- oorspronkelijk moet zijn;
- regelmatig geactualiseerd moet worden;
- betrekking moet hebben op nieuws; en
- het resultaat moet zijn van journalistieke arbeid (er moet minimaal één professionele journalist in dienst zijn).

Inhoud van promotionele aard of gerelateerd aan bedrijfs- of commerciële activiteiten is uitgesloten van het verlaagde btw-tarief.

Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

Aangezien één van de voorwaarden gesteld in bijlage III van de btw-wet met betrekking tot kranten en periodieken is dat deze op regelmatige basis moeten verschijnen, lijkt het aannemelijk dat op zichzelf staande artikelen niet in aanmerking komen voor het speciale verlaagde btw-tarief.

verschilt alleen van een gedrukt boek op enkele noodzakelijke, aan de verschijningsvorm inherente onderdelen. Zie verder <http://bofip.impots.gouv.fr/bofip/1437-PGP.html> (laatst bezocht op 24 juni 2019).



Luxemburg

Tekst van de wet (niet-officiële vertaling)²⁹

VAT Act Appendix B

5. Books, newspapers and periodicals, delivered on physical media or electronically, or both. Excluded are publications consisting entirely or predominantly of advertisement, publications consisting entirely or predominantly of video content or music and publications consisting wholly or predominantly of pornographic content.

17. The loan of publications by libraries benefitting from the super reduced rate according to point 5.

Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Met ingang van 1 mei 2019 heeft Luxemburg een sterk verlaagd btw-tarief ingevoerd van 3% op elektronische publicaties.

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

De bepalingen in de btw-wet weerspiegelen die van de btw-richtlijn. Derhalve wordt geen definitie gegeven van boeken, kranten en tijdschriften, hetgeen suggereert dat de betekenis uit het algemeen spraakgebruik van toepassing is. De bepalingen hanteren negatieve voorwaarden die elektronische publicaties uitsluiten waarvan de inhoud hoofdzakelijk advertenties, audio, video of porno bevat. De criteria van de wet gelden gelijkelijk voor papieren en elektronische publicaties. De toelichting op Circulaire 793 van 17 mei 2019 (“de toelichting”) geeft met betrekking tot papieren uitgaven een opsomming van de betreffende codes uit de nomenclatuur (CN 4901 en 9706 voor boeken, CN 4902 voor kranten en tijdschriften), en beklemtoont dat elektronische publicaties gelden als langs elektronische weg geleverde diensten; derhalve is tariefindeling hierop niet van toepassing.

In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

Publicaties die geheel of hoofdzakelijk bestaan uit video- of muziekinhoud vallen buiten het toepassingsbereik van het verlaagde btw-tarief. De btw-wet geeft geen definitie van de termen “geheel of hoofdzakelijk”, maar in de toelichting wordt het doel van deze bepaling verklaard. Op grond

²⁹ Zie voor de officiële tekst <http://www.aed.public.lu/actualites/2019/05/Circulaire793/Circulaire-793.pdf> (laatst bezocht op 13 juni 2019).



hiervan is het gelijktrekken van het btw-tarief voor papieren en elektronische publicaties alleen logisch als deze nagenoeg dezelfde informatie weergeven. Derhalve zijn video- en muziekinhoud alleen toegestaan in een mate waarin zij niet van doorslaggevend belang zijn voor de consument en geen doel zijn op zichzelf.

Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

In dit opzicht bieden noch de bepalingen in de btw-wet noch de toelichting specifieke instructies. Bijlage B, punt 17 van de btw-wet breidt het verlaagde tarief ook uit tot het verhuren van publicaties door bibliotheken. Hierbij vermeldt de toelichting dat deze bepaling niet alleen geldt voor situaties waarin elektronische publicaties beschikbaar worden gesteld in bibliotheken maar ook voor abonnementen die toegang geven tot dergelijke publicaties. Uit de toelichting wordt echter niet duidelijk of alleen bibliotheken dergelijke abonnementen mogen aanbieden of andere instanties ook.

Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

Noch de bepalingen in de btw-wet noch de toelichting bieden specifieke instructies hiervoor. Als bovenvermelde bijlage B, punt 17 van de btw-wet kan worden geïnterpreteerd als niet uitsluitend van toepassing op bibliotheken zou geconcludeerd kunnen worden dat losse artikelen ook binnen het toepassingsbereik kunnen vallen.



Verenigd Koninkrijk

Tekst van de wet

Niet van toepassing.

Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Op dit moment vallen papieren publicaties onder het nultarief op grond van sectie 30 en schema 8 groep 3 van de btw-wet 1994 (section 30 and Schedule 8 Group 3 VAT Act 1994). Btw-kennisgeving (VAT Notice) 701/10³⁰ behandelt de interpretatie van de regels met betrekking tot dergelijke publicaties. Punt 2 van de kennisgeving stelt specifiek dat elektronische publicaties onder het standaardtarief vallen.

Op dit moment bevatten de voorgestelde wetswijzigingen met betrekking tot btw in de begroting voor 2018 geen veranderingen ten aanzien van elektronische publicaties.³¹

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

Niet van toepassing.

In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

Niet van toepassing.

Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

Niet van toepassing.

³⁰ Zie <https://www.gov.uk/guidance/zero-rating-books-and-printed-matter-for-vat-notice-70110#items-not-included-within-any-of-the-group-3-items> (laatst bezocht op 9 juni 2019).

³¹ Zie <https://www.gov.uk/government/publications/budget-2018-overview-of-tax-legislation-and-rates-ootlar/budget-2018-overview-of-tax-legislation-and-rates-ootlar> (laatst bezocht op 9 juni 2019).



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Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

Niet van toepassing.



Zweden

Tekst van de wet (niet-officiële vertaling)³²

VAT Act

Chapter 7

Article 1 (from 1 July 2019)

The tax is levied at 6 percent of the taxable amount for

13. sales, intra-Community acquisitions and imports of the following goods, unless otherwise indicated in Chapter 3, Articles 13 and 14, on the condition that the goods are not completely or principally devoted to commercial advertising:
 - books, brochures, binders and similar products, even in the form of single pages,
 - newspapers and magazines,
 - picture books, sketch books and colouring books for children,
 - note sheets, and
 - maps, including atlases, road maps and topographical maps,
14. sales, intra-Community acquisitions and import of programs and catalogues for operations as indicated in 6, 7, 8 or 11 as well as sales other than for one's own enterprise, intra-Community acquisitions and import of programs and catalogues for enterprises as indicated in Chapter 3, Article 18, on the condition that the programs and catalogues are not completely or principally devoted to commercial advertising,
15. sales of radio newspapers as well as sales, intra-Community acquisitions and imports of cassette newspapers, unless something follows pursuant to Chapter 3, Article 17, and of cassettes or any other technical medium which reproduces the reading of the content of a good encompassed by (1),
16. sales, intra-Community acquisitions and import of a good which through sign language, Braille or other such methods of rendering script or other information available particularly to those with reading disabilities, if not otherwise indicated in Chapter 3, 4 §,
17. sale of products referred to in 1-4, if they
 - d) is provided electronically,
 - e) is not wholly or mainly dedicated to advertising; and
 - f) not wholly or mainly consists of moving picture or audible music,
18. access to concerts, circus, cinema, theatre, opera or ballet performances or other comparable performances,

³² Zie voor de officiële tekst

<https://www.regeringen.se/49492f/contentassets/8b03e62e27f54c1dba32fbca619b3531/extra-andringsbudget-for-2019--sankt-mervardesskatt-pa-elektroniska-publikationer-prop.-20181973.pdf> (laatst bezocht op 17 juni 2019).

Noot: weglatingen aangegeven met [...] hebben geen betrekking op publicaties.



19. services as indicated in Chapter 3, Article 11 (2) and (4) if the enterprise is not run by nor is it to more than a negligible scope supported by the state,
20. access to and tours of zoos tours of nature conservation areas outside of built-up areas and tours of national parks, nature reserves, national city parks and Natura 2000 areas,
21. letting or transferring of rights which are encompassed by Article 1, 4 or 5 of Swedish Copyright Legislation (SFS 1960:729) regarding literary and artistic work, however not when it is a matter of photographs, advertising pieces, systems and programs for automatic data processing or films, videograms or other comparable recording pertaining to information,
22. [...]
23. sales of services within the field of athletics as indicated in Chapter 3, Article 11(a), first paragraph and which are not exempt from taxation according to the second paragraph of the same clause, and
24. [...]

Vragen en antwoorden

Wordt het lage btw-tarief reeds toegepast op de levering van boeken, kranten en tijdschriften via de elektronische weg of bestaat het voornemen om deze prestaties (in overeenstemming met de kanbepaling uit de btw-richtlijn) onder het lage tarief te brengen?

Er is op dit moment een voorstel in behandeling om een verlaagd btw-tarief in te voeren van 6% voor elektronisch publicaties. Als dit wordt aangenomen zouden de nieuwe regels gelden met ingang van 1 juli 2019.

Welke criteria worden gebruikt om de toepassing van het verlaagde tarief voor elektronische boeken, kranten en tijdschriften af te bakenen en komen deze criteria overeen met de criteria die reeds gelden voor fysieke uitgaven?

De voorgestelde bepalingen van de btw-wet bieden geen leidraad voor de voorwaarden waaraan publicaties moeten voldoen om in aanmerking te komen voor het verlaagde btw-tarief (afgezien van het uitsluiten van publicaties die geheel of voornamelijk gewijd zijn aan advertenties en geheel of voornamelijk bestaan uit bewegend beeld of beluisterbare muziek). De toelichting bij het voorstel neemt dit punt ook in overweging en onderstreept dat naar het inzicht van de wetgever een definitie geven het risico in zich draagt dat de definitie snel verouderd raakt. Derhalve stelt de wetgever voor dat de autoriteiten die de wet toepassen per geval een afweging te maken, waarbij moet worden vastgesteld of het gebruik van de elektronische publicatie overeenkomt met het gebruik van de gedrukte tegenhanger vanuit het perspectief van de gemiddelde gebruiker. De toelichting geeft ook aan dat met het oog op uitsluiting afzonderlijk onderzocht moet worden of de publicatie geheel of voornamelijk gewijd is aan advertenties en of deze geheel of voornamelijk bestaat uit bewegende beelden of beluisterbare muziek. Tenslotte benadrukt de wetgever dat het feit dat producten eenzelfde doel dienen niet noodzakelijkerwijs betekent dat zij op dezelfde manier gebruikt worden; als voorbeeld wordt gegeven dat films over een historisch onderwerp hetzelfde doel dienen als boeken over dat onderwerp maar wel op een andere manier gebruikt worden.



In hoeverre worden video-inhoud en muziek in elektronische uitgaven toegelaten en welke maatstaf wordt gehanteerd om te bepalen of daaraan is voldaan?

Zoals besproken onder het vorige punt vallen elektronische publicaties onder het verlaagde btw-tarief als zij nagenoeg op dezelfde manier worden gebruikt als de gedrukte tegenhanger vanuit het perspectief van een gemiddelde gebruiker. Als het belangrijkste onderdeel van de inhoud bewegend beeld of muziek is, dan dient de tekst alleen voor een betere beleving van het bewegende beeld of de muziek en is het verlaagde btw-tarief niet van toepassing. Ook moet worden vermeld dat de voorgestelde formulering van de btw-wet de term “bewegend beeld” hanteert in plaats van “video” omdat die term in de ogen van de wetgever preciezer is.

Wordt het lage btw-tarief ook toegepast op het verlenen van toegang tot nieuwswebsites of andere websites met journalistieke inhoud, en zo ja, op welke wijze wordt dat afgebakend?

De voorgestelde formulering van de btw-wet doet hier geen specifieke uitspraak over maar de toelichting bespreekt elektronische kranten en tijdschriften als een dienst die toegang verleent tot regelmatig geactualiseerde redactionele inhoud.

Valt de levering van losse artikelen uit elektronische kranten en tijdschriften (ontbundeld) ook onder het lage btw-tarief?

De formulering van het voorstel noch de toelichting geeft een duidelijke leidraad in dit opzicht. In het geval van gedrukte media vallen ook documenten van één bladzijde (bestaande uit voornamelijk tekst en bedoeld om gelezen te worden) binnen het toepassingsbereik van het verlaagde btw-tarief. Daarom kan aangevoerd worden dat de ele