



TAX DEPARTMENT

Translation of the tax bulletin¹

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Turnover Tax

Introduction

The value added tax (VAT) is not applicable in the French overseas Collectivity of Saint-Martin, where has been introduced another consumption tax affecting the supply of goods and services².

Liability to the tax is mainly determined by the nature of the transactions carried out or the products concerned, the personal situation of the taxable person or his customer being generally without effect.

Despite the absence of a right given to taxable persons to claim deduction of the tax they are charged, the definition of the scope of application and exemption of taxation is such that, at the end of the economic circuit of purchase and resale making the goods available to the purchaser, the tax burden is generally equal to the tax calculated on the final selling price required from the latter.

The amount of tax to charge for a transaction is calculated by applying to the base before tax, whatever its amount, a proportional tax rate.

The rules of assessment and collection applicable to the turnover tax are set out in the General tax code and the local authority's Tax procedure code, which define and determine the following elements :

- I. Taxable transactions (GTC, art. 250 and 251);
- II. Territoriality (GTC, art. 252);
- III. Exemptions (GTC, art. 253, 253 bis and 254);
- IV. Tax base (GTC, art. 255 and 256);
- V. Taxable event and chargeability (GTC, art. 257);
- VI. The liquidation of the tax and its rate (GTC, art. 258 and 259);
- VII. Persons liable for the tax (GTC, art. 260 and 261);
- VIII. Obligations of the taxpayers (GTC, art. 262 to 264);
- IX. Payment of the tax (GTC, art. 264 bis and 1692);

¹ This translation must not be considered as a legally binding document, but a mere backgrounder for english speakers. Only the French version of the Collectivity of Saint-Martin general tax code, tax procedure code or tax bulletin on turnover tax can be considered as legal documents.

² In French Taxe Générale sur le Chiffre d'Affaires (TGCA).

The procedures set for the turnover tax collection, control and litigation are mainly based on general tax law and procedures.

Abbreviations used:

VAT: value added tax

GTC: General Tax Code of the French overseas Collectivity of Saint-Martin

art.: article

NIF: tax identification number (specific to turnover tax)

I. Taxable supplies (GTC, art. 250 and 251)

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Transactions that fall within the scope of the turnover tax are transactions to which the tax applies. This means that turnover tax is collected during the transaction, or that the transaction is exempted from the tax. Transactions outside the scope of the tax are not liable to tax.

Are liable to the turnover tax :

Delivery of tangible goods effected for consideration in Saint-Martin by a taxable person acting as such, except for those made to taxable persons:

- by persons who carry on production activities in Saint-Martin³;
- who undertake to record them in their inventories, whether they are goods intended for resale or supplies intended to be consumed by the enterprise in the production process or in the process of providing services⁴;

Provision of services effected for consideration in Saint-Martin by a taxable person acting as such.

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Delivery definition (GTC, art. 250 II)

The transfer of the power of disposal on a tangible good is considered a provision of property, and in particular :

- the transfer of ownership of tangible property by virtue of a contract, even if unwritten ;
- the provision of tangible property under a financial lease or leasing agreement;
- the transfer of ownership of tangible property that is the subject of an assembly contract of such property with another property;
- the disposal of tangible property for non-business purposes, resulting in the removal of the property from the taxpayer's business assets;
- the transfer of ownership of tangible goods by virtue of a requisition from the public authorities.

The provision of electricity, water, gas, heat or refrigeration through a supply system or intended to be distributed through a distribution system is not considered to be a provision of tangible good.

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Deliveries not liable to tax in the absence of a right to deduct (GTC, art. 251)

In order to take into account the absence of a right to deduct, are not subject to turnover tax :

- provision of tangible movable property, duly justified by an invoice, made to taxable persons by persons who carry out production activities in Saint-Martin. Are considered to be production activities : manufacturing or processing of tangible movable property, with the exception of those referred to in III of article 250, as well as mining, agricultural, fishing and aquaculture activities;

³ art 251 2° of the GTC

⁴ art 251 3° of the GTC

- provision of tangible movable property, duly justified by an invoice, made to taxable persons who commit themselves to record them in their inventories, whether they are goods intended for resale or supplies intended to be consumed by the enterprise in the production process or the provision of services.

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Deliveries constituting fixed assets (GTC, art. 251 I 3°)

Are subject to tax deliveries of goods intended to constitute fixed assets of the business, subject to the provisions concerning deliveries of tangible movable property, duly justified by an invoice, made to taxable persons by persons carrying out production activities in Saint-Martin (see above) and imports (see below).

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Import of goods (GTC, art. 251 I 1°)

Imports of tangible personal property into the territory of the Collectivity of Saint-Martin are not subject to the turnover tax. Is considered an importation of tangible personal property the entry into the territory of the Collectivity of Saint-Martin, regardless of its origin.

Are not subject to tax :

- the import of goods into Saint-Martin following their delivery outside Saint-Martin;
- when the goods were not delivered outside Saint-Martin, the first delivery into Saint-Martin following their import.

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Services (GTC, art. 250 IV and VI)

Services are understood to be all services other than deliveries as defined above. In particular, the following are considered as services :

- the transfer or concession of intangible personal property;
- to commit oneself not to do or to tolerate an act or a situation;
- toll manufacturing;
- construction work;
- the performance of the trustee obligations;
- the supply of access to the telephone networks, telecommunication and electronic services and all services related to their use;
- electricity, water, gas, heat or cold delivery through a supply system or intended to be so ;
- vehicle rentals and accommodation services provided by tourist accommodation establishments, tourist hotels, tourist residences, vacation villages, whether classified or not, renters of furnished apartments or villas, furnished tourist accommodation and rural cottages, campgrounds operators, marinas, nautical bases or pleasure boats, and generally speaking all hosting professionals;
- intermediary transactions carried out by the taxable person acting in the name of another person for the account of another person, or in his own name but for the account of another person, whether they concern the supply of goods or the provision of services.

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Notion of taxable person (GTC, art. 250 V and 251 II)

Regardless of their legal status, their situation regarding other taxes and the form or nature of their intervention, persons who independently carry out an activity as a producer, trader or service provider, including in the agricultural or mining sectors, or a liberal profession or similar, are liable to the turnover tax.

An economic activity is, in particular, considered to be an operation involving the use of tangible or intangible movable property with a view to obtaining permanent income from it.

Are not considered as acting independently:

- Employees and other persons who are bound by a contract of employment or by any other legal relationship creating a subordinate relationship as regards working conditions, terms of remuneration and employer's liability;
- Home workers whose earnings are considered as wages, when they carry out their activity under the conditions provided for in articles L. 7412-1, L. 7412-2 and L. 7413-2 of the French Labor Code.

Public authorities are not liable to the turnover tax for the activity of their administrative, social, educational, cultural and sports services, except when it would lead to a competition distortion.

The Collectivity of Saint-Martin public bodies are not liable to the turnover tax when their activity does not compete with the commercial sector or, if there is competition, is carried out under conditions different from those of the commercial sector.

II. Territoriality (GTC, art. 252)

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The application of the territoriality rules makes it possible to determine whether, in the light of where it actually takes place, a transaction is subject to the turnover tax or whether it avoids it because not being considered to occur on the territory of the Collectivity.

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Supply of goods

- **The place of delivery of tangible movable property** is deemed to be in the Collectivity of Saint-Martin if the property is located on its territory :
 - at the time of shipment or transport by or on behalf of the seller or the buyer to the buyer;
 - at the time of assembly or installation by the seller or on his behalf;
 - as an exception to the cases above mentioned, when the place of shipment or transport is outside of Saint-Martin, the place of delivery by or on behalf of the importer following the importation is deemed to be located in the Collectivity of Saint-Martin territory;
 - when the goods are made available to the purchaser, in the absence of shipment or transport;
 - at the time of departure of a transport whose place of arrival is located outside of Saint-Martin, in the case where the delivery, in the course of this transport, is carried out aboard a boat or an aircraft.

- **The place of supply of real property** is the Collectivity of Saint-Martin when the real estate is located on the territory of the Collectivity.

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Supply of services

The place of provision of services is the Collectivity of Saint-Martin when :

- the supplier has established in the territory of the Collectivity the seat of his business or has a permanent establishment there from which the service is rendered or, failing this, his domicile or habitual residence and the customer is in Saint-Martin or the service is used in Saint-Martin;

- the service provider does not have his business headquarters or a permanent establishment in Saint-Martin from which the service is provided or, failing that, his domicile or habitual residence, but the service is used in Saint-Martin.

In order to prove that services rendered to a customer outside of Saint-Martin by a taxable person established in Saint-Martin are not taxable, the taxable person must have the following administrative documents available:

- a copy of the invoice issued specifying the nature of the services provided, the remuneration to be received, the name and address of the customer and stating that the services are not used in Saint-Martin;
- proof of payment.

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Details

The provisions of 1° of the I of article LO 6314-4 of the General Code of the Territorial Collectivities have no effect on the determination of the domicile or the establishment of the taxable person, of the seller or the purchaser of goods, of the provider or the taker of services, for the application of the turnover tax (art 250-VII of the GTC).

Persons established outside Saint-Martin : tax representative (Art 252 II 2° of the GTC)

The tax authorities may ask persons established outside of Saint-Martin who supply taxable goods or services on the territory of the Collectivity for consideration to accredit a representative domiciled in Saint-Martin to the tax authorities, charged with carrying all formalities to which persons liable to the turnover tax are subject and to pay the amount of the tax as well as, if need be, the related penalties.

III. Exemptions (GTC, art. 253, 253 bis and 254)

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A transaction falling within the scope of the turnover tax and located on the territory of the Collectivity by virtue of the rules of territoriality may not be taxed if an exemption is applicable.

The article 253 of the GTC defines a certain number of exemptions linked to the sector of activity, the nature of the goods or service⁵, or the status of the purchaser or lessee.

The following are thus exempted:

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In any case, due to the status of the Collectivity of Saint-Martin (GTC, art. 253 I 15°)

- supplies of goods made to the Collectivity of Saint-Martin and its public bodies that are not subject to the turnover tax under the provisions of the second paragraph of II of article 251 of the GTC, as well as services provided to these same persons.

⁵ Generally property otherwise subject to an other tax.

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In the field of transport (GTC, art. 253 I 1°, 2° and 7°)

- transport services carried out in the context of the independent exercise of the profession of road passenger transport operator by bus, coach or cab, as well as the exercise of an activity of school bus services;
- transport services by means of aircraft or ships. The term "ships" refers to all boats and vessels used or intended to be used as a means of transportation on water, with the exception of pleasure boats;
- services carried out in a port or airport area in connection with goods entering or leaving the territory of the Collectivity of Saint-Martin.

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In the medical field (GTC, art. 253 I 3° to 5°)

- health services provided by hospitals, clinics, medical analysis laboratories, doctors, dentists, prosthetists, nurses and midwives, physiotherapists, chiropractors, speech therapists, dietiticians, chiropodists or other human health professionals in the exercise of their professional activity, provided that they give rise to total or partial refund by social security;
- sales of medicines for human use (sales of parapharmaceutical products are not considered as sales of medicines);
- deliveries of prostheses and medical accessories.

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In the real estate domain (GTC, art. 253 II 1° to 4°)

- the provision of real estate, provided that the transaction has given rise to the payment of transfer duties;
- tenancies of immovable properties and other transfers of use subject to the leasehold tax as defined by the article 736 of the GTC, or exempted from this tax pursuant to the provisions of the II of the aforementioned article;
- transfers of property for valuable consideration of movable property subject to compulsory registration duty;
- accommodation services for individuals who stay in Saint-Martin for more than 90 days during the year.⁶

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In the banking and financial field (GTC, art. 253 I 12° and 253 III)

- the granting and negotiation of loans, the management of loans carried out by the person who granted them, securities loans carried out under the conditions provided for by articles L. 211-22 to L. 211-26 of the French Monetary and Financial Code and repurchase agreements carried out under the conditions provided for in articles L. 211-27 to L. 211-34 of the same code;
- the negotiation and handling of commitments, sureties and other securities and guarantees, as well as the management of credit guarantees by the person who granted the credit;
- transactions, including negotiation, concerning deposits of funds, current accounts, payments, transfers, claims, checks and other commercial bills, with the exception of debt collection;
- transactions, including negotiation, in currencies, banknotes and currencies that are legal tender, with the exception of collector's coins and banknotes;
- operations, other than those of custody and management related to shares, company or association shares, bonds and other securities, excluding securities representing goods and

⁶ Mooring services are assimilated to accommodation services but are taxable regardless of their duration (4° of II of art 253).

interest shares, the possession of which ensures, in law or in fact, the attribution of ownership or enjoyment of real estate or a fraction of real estate;

- the management of undertakings for collective investment in transferable securities and mutual debt funds;
- transactions related to gold, other than gold for industrial use, when carried out by credit institutions, investment service providers, money changers, discounters and remitters, or by any other person for whom it is the main activity;
- the supply of goods and services, including brokerage, related to foreign currency.

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In the postal sector (GTC, art. 253 I 6° and 14°)

- the supply of postal services;
- deliveries at their official value of fiscal stamps and postage stamps that are valid or used for postage in Saint-Martin.

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In the field of betting and gaming

- The sale of bets on games and lottery tickets offered by the Française des Jeux, and on all other authorized games of chance, as well as the provision of services for the organization and distribution of games offered by the Française des Jeux⁷.

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In various fields

- water supply by companies or organizations using a water distribution networks (GTC, art. 253 I 11°);
- fuel supplies on which the consumption tax on petroleum products provided for in article 1585 P of the GTC has been levied, or which are not liable to this tax (GTC, art. 253 II 7°);
- insurance services subject to the tax on insurance conventions provided for in article 991 of the aforementioned code or exempt from this tax by virtue of the provisions of articles 995 to 1000 of the same code (GTC, art. 253 II 5°);
- teaching or training services and the services of speakers within the framework of congresses (GTC, art. 253 I 9°);
- bread deliveries (GTC, art. 253 I 10°);
- the supply of services and closely related goods delivery carried out in the context of childcare by the establishments referred to in the first two paragraphs of article L. 2324-1 of the French Public Health Code and providing care for children under the age of three years (GTC, art. 253 I 16°);
- leases of tangible property carried out within the framework of contracts mentioned in the twenty-sixth and twenty-ninth paragraphs of I of article 199 undecies B of the French state General Tax Code, for the first five years of the contract (GTC, art. 253 I 17°);
- subject to reciprocity, supplies of goods and services to career consuls and other professional representatives of foreign States or territories, to the civil servants assigned to them and to the persons living with them or working in their service, provided that these agents or persons are not of French nationality and do not carry on an independent economic activity within the Collectivity territory (GTC, art. 253 I 8°).

⁷ These activities are liable to a specific tax.

Operations carried out by associations governed by the law of July 1, 1901, foundations recognized as being of public utility, company foundations and religious congregations (GTC, art. 253 bis)

Are exempted from the turnover tax the operations carried out by associations governed by the law of July 1, 1901, foundations recognized as being of public utility, company foundations and religious congregations which satisfy the following conditions:

- their management is disinterested;
- their activity does not compete with the commercial sector or, if it does, it is carried out under conditions different from those of the commercial sector;
- the organization does not maintain privileged relationships with businesses.

This exemption applies in particular to revenues from services of a social, educational, cultural or sporting nature and to earnings from charitable or support events organized exclusively for the benefit of these organizations.

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- **Disinterested nature of the management of the association or foundation**

The disinterested nature of the management results from the meeting of the following conditions:

1°. The organization must, in principle, be managed and administered on a voluntary basis by persons who have no direct or indirect interest in the results of its operations.

However, when an organization decides that serving as a director justifies the payment of a remuneration, the disinterested character of its management is not called into question :

- if the total gross monthly remuneration paid to each director at law or in fact does not exceed 3/4 of the minimum wage;
- or if its articles of association and operating procedures ensure its financial transparency, the regular and periodic election of its directors, the effective control of its management by its members and the adequacy of the remuneration to the duties actually imposed on the directors concerned; this provision applies under the following conditions:
 - a. The organization may remunerate one of its directors only if the annual amount of its resources, plus those of its affiliated organizations that meet the conditions allowing them to benefit from this provision, excluding resources derived from payments made by legal entities under public law, is greater than €200,000 on average over the three fiscal years preceding the one during which the remuneration is paid;
 - b. The organization may remunerate two officers or directors if the annual amount of its resources, plus those of its affiliated organizations that meet the conditions allowing them to benefit from this provision, excluding resources derived from payments made by legal entities under public law, is greater than €500,000, on average over the three financial years preceding the one during which the remuneration is paid;
 - c. The organization may remunerate three of its officers or directors if the annual amount of its resources, plus those of the organizations affiliated with it and which meet the conditions allowing them to benefit from this provision, excluding resources derived from payments made by legal entities under public law, is greater than €1,000,000 on average over the three financial years preceding the one during which the remuneration is paid;
 - d. The organization may pay remuneration under this provision only if its articles of association explicitly so provide and if a decision of its governing body has expressly so decided by a two-thirds majority of its members;
 - e. The amount of the resources, excluding resources from payments made by legal entities under public law, is established by a certified public accountant;

f. The amount of all the remunerations paid to each officer or director under the present provision may in no case exceed three times the amount of the ceiling referred to in article L 241-3 of the French social security code.

2°. The organization must not make any direct or indirect distribution of profits, in any form whatsoever.

3°. The members of the organization and their right-holders must not be able to be declared beneficiaries of any share of the net assets, except for the reversal of their financial contribution.

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- **Competitive situation with the market sector of the association or foundation**

Competition with the commercial sector occurs when a commercial enterprise carries on the same activity in Saint-Martin as the organization and targeting the same public. When it is thus in competition with a business, the organization may, however, escape taxation if it carries on its activity under conditions different from those of commercial enterprises, either by meeting certain needs that are insufficiently satisfied by the market, or by addressing a public that cannot access the market by charging lower prices or by modulating its rates, on condition that it does not resort to advertising procedures that exceed the needs of informing the public about the services offered.

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- **Special relations of the association or foundation with businesses**

An organization has a special relationship with businesses, notably if its purpose is to provide services to businesses that benefit from the organization's activities. If, on the other hand, the organization has only a federative role, such as ensuring the collective defense of the moral or material interests of its members, it is not deemed to provide a competitive advantage to its members.

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Deliveries outside of Saint-Martin (GTC, art. 254)

The supply of tangible personal property to purchasers domiciled or established outside the island of Saint-Martin is exempt from the general turnover tax, provided that the goods concerned by this supply are dispatched or transported by or on the orders of the taxable person to a destination outside the island of Saint-Martin.

This does not apply to supplies of goods to purchasers domiciled or established on the part of the island of Saint-Martin that is not part of the territory of the Collectivity of Saint-Martin, or to goods dispatched or transported by or on the orders of the taxable person to that destination, which remain taxable.

In order to justify its right to exemption, the company must be in possession of the following administrative documents :

- a copy of the invoice issued specifying the quantity and nature of the goods supplied, the remuneration to be received and the name and address of the purchaser;
- proof of payment;
- transport documents showing that the goods have actually left the territory of Saint-Martin ;
- a copy of the landing or import document signed by the competent authorities of the country or territory to which the goods were transported or, at the discretion of the tax authorities, a declaration from the country or territory of destination attesting that the goods have actually reached their destination.

IV. Tax base (GTC, art. 255 and 256)

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The taxable amount is made up of :

- for the supply of goods and services, all sums, values, goods or services received or to be received by the supplier or service provider in return for these operations, from the purchaser, the customer or a third party, including subsidies directly linked to the price of these operations;
- for transactions carried out by commission agents, representatives, agents and other intermediaries⁸, by the amount of brokerage fees, commissions and other sums or profits definitively acquired in return for the service rendered ;
- for banking or financial transactions not exempted under III of article 253, by the gross amount of the profits made;
- for self-supplies⁹:
 - o of goods, by the purchase price of these goods or of similar goods or, in the absence of a purchase price, by the cost price, determined in the place and at the time when the tax becomes chargeable;
 - o of services, by the costs incurred by their performance;
- for intermediary transactions carried out by travel agencies and tour operators, by the difference between the total price paid by the customer and the actual price charged to the agency or operator by transport contractors, hoteliers, restaurant owners, entertainment operators and other taxable persons who physically perform the services used by the customer ;
- for construction works, by the amount of the contracts, memoranda or invoices ;
- for services performed by a trustee, by the remuneration paid by the settlor or withheld from the revenue from the exploitation of the rights and property of the trust.

When the elements used to determine the tax base are expressed in a currency other than the euro, the exchange rate to be applied is that of the last rate determined by reference to the rate published by the Banque de France on the basis of the rate set by the European Central Bank, on the day the tax is due.

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Details on the tax base (GTC, art. 256) :

The taxable amount includes :

- Taxes, duties and levies of any kind, with the exception of the turnover tax itself.
- Expenses for incidental services to the supply of goods or services such as commissions, interests, packaging, transport and insurance costs charged to customers.

The following are not to be included in the taxable amount :

- Cash discounts, rebates, discounts, rebates and other price reductions granted directly to customers;
- Sums reimbursed to intermediaries, other than travel agencies and tour operators, who make expenditures in the name of and on behalf of their principals, provided that these intermediaries report to their principals, enter these expenses in their accounts in transitory accounts and justify to the tax authorities the nature or exact amount of these disbursements.

Amounts received for the supply of returnable packaging may be excluded from the taxable amount, provided that the turnover tax is not charged on the corresponding base. But they must be included in

⁸ Referred to in VI of GTC article 250.

⁹ See II of GTC article 250.

the taxable amount if the packaging has not been returned within the time limits customary in the trade.

V. Taxable event and liability (GTC, art. 257)

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Chargeable event

The taxable event occurs :

- At the time when the supply or provision of services is made;
- For supplies other than those made under a leasing contract or a financial leasing contract, as well as for the provision of services which give rise to the establishment of successive statements of account or successive payments, at the time of expiry of the periods to which these statements of account or payments relate;
- For supplies of goods and services corresponding to intermediary transactions carried out by the taxable person acting in the name of another person for the account of another person, or in his own name but for the account of another person¹⁰, at the time when the transaction in which the taxable person is engaged is carried out.

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Chargeability of the tax

The tax becomes chargeable on receipt of the advance payment, price or, by option of the taxable person, on the basis of the customer account debit¹¹. In the case of self-supply, the tax becomes chargeable when the chargeable event occurs.

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Option for chargeability when the customer account is debited (GTC, art. 257 3)

Taxable persons who intend to pay the turnover tax on the basis of the customer account debit must send a written request to the tax office of the Collectivity of Saint-Martin.

The option applies to all transactions carried out; it remains valid as long as the taxable persons do not express, by written request, their wish to be submitted to ordinary rules.

The option applies to transactions carried out from the first day of the month following the month in which it has been exercised.

The option results in the chargeability of the transactions -carried out on or after the first day of the month following the month in which the waiver was sent- according to the general rule, that is payments received.

When taxable persons have opted for chargeability when the customer account is debited, and part or all of the amount mentioned on the invoice is not collected, taxable persons may deduct the unpaid amount from the taxable turnover for the period during which they enter the said amount as a bad debt. When taxable persons, after having entered into their accounts the unpaid amount as a bad debt, nevertheless receive a payment in settlement of the invoice issued, they must report this payment as part of the turnover of the period of reception.

¹⁰ See VI of GTC, art. 250.

¹¹ Which is generally when the invoice is issued.

VI. Tax rate and calculation (GTC, art. 258, 259)

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The turnover tax is assessed on the basis of the completed forms sent by taxpayers under the conditions laid down by the article 263 of the GTC.

It is levied on taxable amounts and on all items used to calculate the tax, rounded to the nearest euro; the fraction of a euro equal to 0.50 is counted as 1.

The rate of the turnover tax is set at 4%.¹²

VII. Taxable persons (GTC, art. 260 and 261)

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The tax must be paid by the persons who make the taxable supplies of tangible goods and services.

***Particular case of vacation rentals:** By way of exception, intermediaries involved in the seasonal rental of furnished housing for residential use and mandated for this purpose by their clients may pay the tax on behalf of the renters. In this case, the intermediary must make a payment by bank transfer, and send the tax office a summary matching the tax paid.*

The person who mentions turnover tax on an invoice becomes by this mere fact a taxable person and must pay the tax.

When the invoice does not correspond to the delivery of tangible goods or the performance of a service, or mentions a price that is not actually paid by the purchaser, the tax is due by the person who has invoiced it.

The taxable person to whom a supply of goods or services has been made and who knew or could not have been unaware that all or part of the turnover tax due on this supply or on any previous supply of the same goods or services had not been paid fraudulently shall be jointly and severally liable with the person liable for the payment of the tax.

The taxable person in whose favor a supply of goods or services has been made by a person established outside Saint-Martin is required to ensure that the latter is registered with the tax authorities for the purpose of paying the tax. The buyer shall keep in his books a copy of the registration certificate of the supplier or service provider. Failing this, he is jointly and severally liable with the person liable for the payment of the tax.

The taxable person in whose favor a supply of goods not subject to tax has been made pursuant to the provisions of the article 251 I 3° of the GTC¹³, and who has not given these goods the destination provided for by these provisions, shall be required to pay the amount of the tax and penalties due.

The taxable person who has carried out a supply of goods not subject to tax pursuant to the provisions of the article 251 I 3° of the GTC and who knew or could not have been unaware that the taxable person in whose favor the supply was carried out would not give these goods the destination provided for by these provisions shall be jointly and severally liable, with the taxable person referred to in the first paragraph, to pay the amount of the tax and penalties due.

¹² For operations carried out since January 1, 2015.

¹³ Concerning supplies of tangible goods, duly justified by an invoice, made to taxable persons who commit themselves to record them in their inventories, whether they are goods intended for resale or supplies intended to be consumed by the company in the production process or the provision of services.

For transactions related to the use of goods or rights in a trust, the trustee shall be considered as a separate taxpayer for each trust contract.

VIII. Obligations of the taxable persons (GTC, art. 262 to 264)

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Declaration of existence and of cessation of activity

Any person liable to turnover tax must file a declaration of existence with the business formality center or the tax authorities, together with all information related to his professional activity, in accordance with the schedule provided by the authorities, within fifteen days of the start of his operations.

These provisions are also applicable to persons domiciled or established outside Saint-Martin who carry out operations there that fall within the scope of the tax. A declaration is also required in the event of the cessation of business.

Individual identification number

Every person liable to turnover tax is identified by an individual number.

Bank guarantee (taxable persons established outside the EU)

The tax authorities may ask taxable persons who are not established in a Member State of the European Union to provide a bank guarantee.

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Accounting records and supporting evidence

If a person liable to turnover tax does not usually keep accounts to determine his turnover, he must keep a book with numbered pages in which he enters, day by day, without blanking or erasure, the amount of each of his transactions, distinguishing, if necessary, between his taxable and non-taxable transactions, or the receipts provided by the intermediary involved in the transaction.¹⁴

Each entry must show the date, a brief description of the items sold, the service rendered, or the taxable transaction, and the price of the sale or purchase, or the amount of any brokerage, commission, rebate, salary, rental, interest, discount, premium, or other profit.

However, cash transactions may be entered in the accounts at the end of each day when their value is inferior to 100 euros for retail sales and services rendered to individuals. The amount of transactions recorded in the book is totalled at the end of the month.

The above-mentioned book or the accounts serving as a book, as well as the supporting evidence for the transactions carried out by the taxpayers, in particular the purchase invoices, must be kept in accordance with the terms and conditions set out in I of Article L102 B of the Tax procedure code.¹⁵

Any person liable to turnover tax must provide tax officials, for each category of taxable person, with all the evidence necessary to determine the taxable transactions, without prejudice to the provisions of article L85 of the Tax procedure code.

¹⁴ Digital platforms in particular.

¹⁵ The retention period for accounting documents and vouchers is set at 10 years by Article L123-22 of the French Commercial Code.

Specific obligations falling on particular types of taxable persons (GTC, art. 264 VI and VII)

Taxable persons who rent land motor vehicles must present at the request of the tax authorities the relevant documents that make it possible to know, for each tax period, the list of vehicles offered for rent, their registration number, the rates charged and the revenues achieved.

Taxpayers who provide accommodation to individuals residing less than 90 days a year in Saint-Martin, and in particular tourist accommodation establishments, tourist hotels, tourist residences, vacation villages, whether classified or not, renters of furnished apartments or villas, furnished tourist accommodation and rural cottages, operators of campgrounds, marinas, water sports centers or pleasure boats, must enter on a summary, in the order of the payment received, the names of the persons who have stayed in the establishment or place of accommodation, the number of days spent, and the amount of the collected tax.

350**Tax return**

Any person liable to turnover tax must submit a tax return using the template provided by the tax administration¹⁶.

The return must contain :

- the total amount, excluding the turnover tax, of supplies of goods exempted under the provisions of the article 254 I of the GTC;
- the total amount, excluding the turnover tax, of supplies of goods and services provided to the taxpayer by a person established outside Saint-Martin, as well as the amount of the corresponding tax.

Particular case of seasonal rentals: *By exception, intermediaries involved in seasonal rentals of furnished housing for residential use and mandated for this purpose may declare the tax on behalf of the lessors. The return to be sent by the intermediary is limited to a summary statement that must be sent in the form of a computer file to the tax office.*

The taxpayers must file the return monthly, reporting the total amount of the operations carried out, and the details of the taxable operations broken down by tax rate.

The tax due must be paid every month, at the same time as the return is filed. However, when the annual tax liability is inferior to 2,000 euros, taxpayers may opt to file their returns and pay the corresponding tax per calendar quarter.

The deadline by which taxpayers are required to submit the return and the accompanying payment to the tax office is set at the 15th of the month following the period for which the tax is due.

In the event of the transfer or cessation of a professional activity, taxpayers are required to submit the corresponding declaration within thirty days.

¹⁶ An English version of the template is available.

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Invoicing obligations (GTC, art. 264)

Taxable persons are required to ensure that an invoice is issued, by themselves, or in their name and on their behalf, by their customer or by a third party for :

- the taxable supplies of goods or services that they provide;
- supplies of goods which they provide and which are exempt under the provisions of the article 254;
- the supply of services which they perform for the benefit of a customer outside Saint-Martin and which are not taxable under the provisions of the article 252 II 1° a;
- supplies of goods or services which they provide for another taxable person and which are not subject to tax by virtue of 2° and 3° of I of article 251 or are exempted by virtue of article 253;
- advance payments made to them before any of the transactions referred to in a, b and c are carried out.

Invoices may be physically issued, in the name and on behalf of the taxable person, by the customer or by a third party when the taxable person expressly gives them a mandate to do so.

The invoicing mandate thus established must stipulate, in particular, that the taxable person retains full responsibility regarding invoicing obligations and their consequences on turnover tax.

In principle, the invoice is issued as soon as the supply or service is provided.

However, it may be issued periodically for several separate supplies of goods or services made between the taxable person and his customer during the same calendar month. This invoice shall be issued at the latest at the end of the same month. Deferred invoicing of the chargeable transactions has no effect on the submission period of the tax return.

Taxable persons must keep a copy of all invoices issued.

Any document or message amending the initial invoice issued and referring to the initial invoice in a specific and unequivocal manner shall be treated as an invoice. It must include all the information mentioned above.

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Mandatory information that must be included on invoices

The information that must appear on invoices is as follows:

- full name and address of the taxable person, and of his customer if the latter is himself a taxable person or a non-taxable legal person;
- the individual identification number allocated to the taxable person pursuant to IV of Article 262;
- the individual identification number of the purchaser or of the taker when he is himself subject to the turnover tax;
- when the person liable for the tax is a tax representative within the meaning of I or II of Article 252, the individual identification number allocated to this tax representative pursuant to IV of Article 262, as well as his full name and address;
- its issuance or sending date in case of e-invoicing;
- a specific number based on a chronological and continuous sequence; when justified by the context of the activity of the taxable person, distinct numerical series can be used for the needs of the numbering process; the taxable person must make use of the distinct series in accordance with their initial justification;

- for each of the goods supplied or services rendered, the quantity, the specific name of the item, the unit price exclusive of tax and the rate of the turnover tax, or, where applicable :
 - o the benefit of an exemption;
 - o the benefit of the provisions of 2° of I of article 251, mention being made of the quality of the seller ("producer");
 - o the benefit of the provisions of 3° of the I of article 251, mention being made of the destination of the goods ("stock");
- all calculable rebates, discounts, and refunds acquired at the time of the transaction and directly linked to this transaction;
- the date on which the supply of goods or services is effective or completed or the date on which the advance payment is made, insofar as such a date is determined and is different from the invoice date of issuance;
- the amount of the tax to be paid, the total excluding tax and the corresponding tax mentioned separately;
- in the case of exemption or when the customer is liable for the tax or when the taxable person applies the profit margin scheme, the reference to the relevant provision of the GTC or to any other indication that the transaction benefits from an exemption measure or the profit margin scheme;
- in the case of services provided by a service provider established in Saint-Martin for the benefit of a customer outside Saint-Martin, and when the service is not used in Saint-Martin:
 - o the name and address of the customer ;
 - o the mention "service not used in Saint-Martin".

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Invoice details

The amounts appearing on the invoice may be expressed in any currency, provided that the amount of tax to be paid is determined in euros using the conversion mechanism provided for by article 255 of the GTC.

When it is written in a foreign language, the tax office may, for control purposes, require a translation into French, under the conditions provided for in the second paragraph of article 54 of the GTC.

In the case of supplies of goods or services made to or for persons other than taxable persons or non-taxable legal entities, when the receipt of payment is concomitant with the supply of the goods or services, the invoice can be drawn up in a simplified form, the compulsory information that must appear being set by article 264 of the GTC, subject to the provisions of the second paragraph of II of article 262 of the same code.

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Transmission of invoices by electronic means

Invoices may, subject to the acceptance of the recipient, be transmitted by electronic means as long as the authenticity of their origin and the integrity of their content are guaranteed by means of an electronic signature. The invoices thus transmitted are used in the place of traditional invoices for the application of article 262 and article 264 of the GTC. The conditions for issuing these invoices, their electronic signature and their storage methods are as laid down by article 96 F of Annex III to the French General Tax Code, in the version applicable at the time the turnover tax came into force in Saint-Martin, and which forms, subject to the interpretation justified by the context, a tax rule for the Collectivity.

When they take the form of a message structured according to a standard agreed between the parties, which can be read by a computer and processed automatically and unambiguously, invoices must be issued under the conditions described below.

Subject to the provisions below, only invoices sent electronically in the form of a message structured according to a standard agreed between the parties, which can be read by computer and processed automatically and unambiguously, shall constitute documents in lieu of traditional invoices within the meaning of turnover tax rules.

The information issued and received must be identical. At the request of the administration, it shall be returned in clear language by the companies responsible for ensuring the invoices issuance, irrespective of the person who has actually issued the messages, in their name and on their behalf. They must also be returned under the same conditions by the companies receiving the invoices, regardless of the person who received them in their name and on their behalf.

On request of the tax administration, the information shall be returned on paper.

Businesses that wish to send their invoices electronically must use a teletransmission system that meets standards equivalent to those defined in Article 2 of Commission Recommendation 1994/820/EC of 19 October 1994 on the legal aspects of electronic data interchange, where the agreement relating to this exchange provides for the use of procedures guaranteeing the authenticity of the origin and the integrity of the data.

Businesses must make sure that the information issued by themselves, or by a third party or client mandated for this purpose, is accessible and retained in its original content and in the chronological order of its issuance under the conditions and within the time limits set by article 102 B of the Tax procedure code.

The entities receiving this information must, regardless of the person who received it in their name and on their behalf, ensure that it is accessible and retained in its original content and in the chronological order in which it was received, in accordance with the conditions and time limits set out in article 102 B of the Tax procedure code.

The entities issuing or receiving invoices under the aforementioned conditions, must, regardless of the person who physically issued or received the messages, in their name and on their behalf, ensure that a sequential summary list of all messages issued and received and any anomalies is kept and preserved on computer media or paper, for the period set out in the first paragraph of article 102 B of the Tax procedure code.

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E-invoicing control

Tax administration employees are entitled to pay unannounced visits to the business premises of sending and receiving companies and, if necessary, to the business premises of the teletransmission service providers, in order to check that the teletransmission system is operating in accordance with the requirements set out for the needs of the turnover tax.

During this procedure, the administration gives the taxpayer or his representative a notice of intervention specifying the technical operations planned on the teletransmission system.

When controlling the system proves impossible or the conditions laid down by the tax regulations are not met, the administration's employees draw up a report. Within thirty days of the notification of this report, the taxpayer may make comments, provide justifications or make the required changes in the

system operational conditions. Beyond that deadline and in the absence of justification or correction, the invoices in question are no longer considered as documents in lieu of original invoices.

The procedure, carried out by administration employees or under their supervision, does not fall within the scope of the tax control procedures governed by articles 10 to 54 A of the Tax procedure code. The reports drawn up in application of this article can be invoked against the taxpayer only as far the compliance of its teletransmission system with the principles and standards set out is concerned.

IX. Payment of the tax (GTC art. 264 bis and 1692)

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Payment options

Taxpayers are required to pay the amount of tax due at the same time as they file their tax return.

The taxpayer may, unless otherwise provided, pay :

- in cash up to a maximum amount (currently €3,000) ;
- by means of a bank or postal check in accordance with the procedures set out in articles 199 to 204 of Annex IV to the French General tax code, which are deemed to constitute a rule applicable in Saint-Martin;
- by transfer into the bank account of the tax office of Saint-Martin Collectivity;
- It must be pointed out that money transfers are from a practical point of view a better payment option than cheques.

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Payment by bank transfer

A bank transfer is an operation that consists in debiting one bank account to credit another. The transfer order may be given by any means accepted by the bank: letter, specific printout, fax, etc...

The transfer order does not transfer ownership of the funds to the beneficiary; if the originator dies or becomes incapacitated before the transfer is executed, the transfer is cancelled. If there are no funds available, the transfer is not processed.

At the same time as the tax return is sent to the tax office, the taxpayer gives order to his bank to transfer the due tax amount to the Treasury's current account at the Bank of France.

The payment by transfer payment procedure requires that the information transmitted by the taxpayer to his bank at the time of the transfer order is sufficiently specific to allow the tax officer:

- To identify the nature and due date of the tax paid;
- To relate the amount paid to the Bank of France to the taxpayer's account by comparison with the corresponding tax return.

The information to be provided by the taxpayer to his bank is outlined in the table below :

Transfer order details	Information
Originator of the funds transfer Beneficiary Beneficiary's bank account identity	1. Name or corporate name of the business 2. Tax office of Saint-Martin (Centre des Finances Publiques) 3. Use the bank details provided by the tax office or online
Rationale for the transaction	4. Number of the tax return or title of the tax concerned (TGCA) 5. Period for which the tax return is filed 6. Business identification (SIRET) number of the business main establishment or NIF13 ¹⁷

Compliance with these practical rules when filling in transfer orders is the only way to make sure that the payment made will be quickly taken into account, thus avoiding the undue application of penalties incurred in the event of late payment.

The date used by the administration to assess compliance with the payment deadline is the date of the interbank settlement which is mentioned on the copy of the transfer notice.

If the payment deadline falls on a public holiday, a Saturday or a Sunday, the tax is paid on time if the interbank settlement date shown on the transfer notice is the first following business day (this rule being also applicable to appreciate compliance with the filing dates of the tax returns).

When the deadline falls on a public holiday for the tax office beneficiary of the payment, the payment must be made on the due date. The closing days of the tax office have no impact on the payment deadline.

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Specific regime for the press and its suppliers

Intermediary operations carried out by persons who can prove that they are agents duly registered with the Press Distribution Council¹⁸ do not give rise to payment of the turnover tax when they relate to periodicals within the meaning of the law of July 29, 1881.

Importers of periodicals thus distributed are liable to turnover tax on the total selling price to the public.

For more information or any question relating to turnover tax :
<https://www.impots-saint-martin.fr/>
- download the GTC (documentation tab);
- contact the tax office or the Collectivity tax department (contact tab).
For any remark or suggestion concerning this document, please contact the Collectivity tax department:
direction-fiscalite@com-saint-martin.fr

¹⁷ Turnover tax identification number.

¹⁸ Or « Conseil Supérieur des Messageries ».