



Exclusive Use, Exclusive Rules: Refining VAT and Payroll Treatment for Company Cars

Luxembourg's Circular 807-1 fine-tunes the QM framework – confirming the “exclusive-use” concept and full taxation of the deemed lease to employees.

1. Background

On 30 October 2025, the Luxembourg VAT authorities (*Administration de l'Enregistrement, des Domaines et de la TVA - AEDT*) published Circular n° 807-1, dated October 21, 2025 which repeals Circular 807bis (April 2023) and complements Circular 807 (February 2021).

Circular 807-1 does not change the VAT regime introduced after the CJEU QM judgment (C-288/19); it clarifies and tightens the rules for company cars, primarily by confirming the “exclusive-use” interpretation and its consequences for VAT, payroll, and cross-border compliance.

2. The core framework remains unchanged

Following the QM jurisprudence, when an employer grants an employee the right to use a company car for private purposes for consideration (salary sacrifice, payment, or choice between different benefits), the arrangement shall be treated in most cases as a long-term rental of a means of transport under Article 56(2) of the EU VAT Directive.

VAT is therefore due in the Member State where the employee resides. Circular 807 (2021) established this framework, and Circular 807-1 confirms it.

3. Key refinements introduced by Circular 807-1

Circular 807-1 removes the last area of flexibility on apportionment between private and business use of the cars and clarifies how employers should treat exclusive-use vehicles.

Exclusive-use rule

According to the circular, where an employee has the exclusive right to use a car and to exclude others, the employer is deemed a lessor.

This entails several consequences:

- ▶ The entire normal value of the car (lease or depreciation value over a five-year period and related expenses) must be taxed as a rental; no reduction for “professional use” is permitted (which contradicts circular 807bis of April 2023).



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- ▶ The car is fully allocated to the employer's taxable activity (the leasing of cars), entitling the employer to full input-VAT recovery on vehicle and related costs, provided the rental is properly subject to VAT (in Luxembourg or in countries of residence of the employees).
- ▶ This confirms the end of apportionment and strengthens VAT recovery rights for fully taxable but also partially or fully exempt employers.

Refund of business-use costs

If an employee who rents a car from the employer uses it for business purposes, Circular 807-1 states that the employee performs a separate service to the employer, for which they may be reimbursed.

While this does not create, in our view, a taxable supply by the employee, it shows the AEDT's strict separation: any reimbursement is outside the rental, and related input VAT is generally non-deductible for the employer.

Procedural aspects

The retroactive-correction mechanism introduced in 807bis is confirmed and requires a **written notification** to the competent VAT office before filing amended returns; and **supporting documentation** (contracts, car policies, payroll records) evidencing the VAT treatment applied.

4. Statute of limitation

Regularisations in Luxembourg remain subject to the **five-year statute of limitation** under Article 81 of the Luxembourg VAT Law (e.g. VAT for **2021** will therefore remain open until **31 December 2026**). Regularisations must be filed before the relevant year becomes prescribed. Employers must also consider **the limitation rules in the other Member States** where VAT is due. Cross-border regularisations should therefore be planned jointly to ensure that all open years remain within their respective limitation periods.

5. Payroll and BIK considerations

Circular 807-1 does not address payroll aspects, but its VAT implications notably affect benefit-in-kind (BIK) calculations.

Respecting the logic of the VAT as a tax on consumption, VAT (Luxembourg or foreign) due on the deemed rental is to be borne by the employee and deducted from their net salary. Such a treatment aligns with VAT legislation and avoids the VAT element being treated as an additional taxable benefit in kind.



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If borne by the employee as an additional cost, there are strong arguments to deduct the VAT element from the BIK calculation (as a personal contribution to the benefit, within the limits imposed by the tax legislation). Even if widely applied by most of the employers so far, this position has not yet been confirmed by the authorities despite a clarification request from the Union des Entreprises Luxembourgeoises (UEL) in 2023.

6. Practical implications for employers

As mentioned, the circular does not fundamentally change the interpretation of the way the QM decision should be implemented by Luxembourg based employers. It however requires employers to reconsider whether, when in the scope of the QM decision, they have apportioned the taxable basis (private/professional use of the cars) and if they did so, whether they should correct this backwards.

The circular also reinforces the necessity to document all decisions and ensure alignment between VAT, payroll and HR policies.

7. BDO comment

Circular 807-1 consolidates Luxembourg's post-QM framework without overturning it. Its major practical effect is the exclusive-use concept, confirming that once an employee has sole access to a vehicle, the full rental value is taxable – which also implies that input VAT is fully recoverable.

The regularisation of past periods remains essential, as France, Belgium and Germany have now each confirmed their own administrative positions. It is worth pointing out here again that Germany adopts a particularly strict stance, considering failure to regularise as a potential penal offence.

Employers should therefore:

1. Regularise all open years before they become time-barred;
2. Align VAT and payroll processes for ongoing compliance; and
3. Coordinate cross-border implementation to mitigate financial and reputational risks.

8. How BDO can help

BDO's VAT and Payroll experts can assist with:

- ▶ Assessing historic exposure and coordinating regularisations across jurisdictions;
- ▶ Implementing VAT-charging and OSS procedures for future compliance;
- ▶ Reviewing payroll and car-policy frameworks;
- ▶ Managing communications with employees and tax authorities.

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