

Tax treatment of a natural person operating a photovoltaic system

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Only legal texts are binding.





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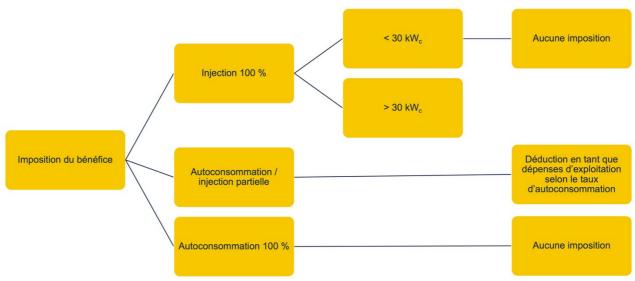


1. Context

The tax treatment of the operation of a photovoltaic system differs according to the individual's choice, and one must distinguish between 3 cases:

- 1. the operator sells the total production to the grid operator
- 2. The operator consumes the generated electricity himself
- 3. the operator consumes the amount of electricity needed for private or professional use, and only sells any surplus

In case 1, the operator of a photovoltaic system with an operated capacity above 30 kWp, sells the total electricity output produced to the grid operator. This is considered a business activity and the remuneration received from the sale of electricity constitutes taxable income.



In the case of a natural person who operates a small photovoltaic system (power: 1 kWp to 30 kWp) the Administration des Contributions Directes accepts, for the sake of simplification and as a matter of administrative tolerance, that the production of electricity is, generally speaking, a hobby that is not taken into account when determining taxable income.

In the case of self-consumption (case 2), the operation of the photovoltaic system is not considered a commercial activity and does not fall within one of the other categories of income listed in article 10 of the amended law on income tax (L.I.R.). There is therefore no taxable benefit but, depending on the use of the produced electricity, the expenses related to the photovoltaic system can be fully deductible as operating expenses. These different cases are described in Circular L.I.R. no. 14/2[1] and deal with the coverage of energy needs:

- of the taxpayer's household,
- of a commercial enterprise,
- a farm or forestry operation,
- the exercise of a liberal profession,
- of a combination of the above,



of a tenant in the context of a building lease.

In the third case, where the production is partially used to cover the energy needs of the operator's private household and the surplus is sold to a third party (either to the network operator or to another private or legal person), this amounts to a special case of self-consumption if the operation is used for a commercial activity. In the case of a natural person and an installation with a power less than or equal to 30 kWp, the installation is treated as a hobby, as detailed above.

2. Definitions and terminology

Purchase price

The purchase price of the photovoltaic system is considered separately, even if the photovoltaic system is integrated into the roof of the building. The following are eligible: all necessary elements for the photovoltaic system, including the supplier's invoice(s) for the installation, the grid operator's invoice for the installation of the meter etc.

State subsidies

The purchase price is reduced by the amount of the state subsidy granted by the Ministry of the Environment, Climate and Biodiversity. We distinguish between 2 subsidy options:

Option 1: 20 % of the effective costs excluding VAT, limited to 500 € / kWp

Condition: with supply to the grid (100 % or less) and a guaranteed feed-in tariff for 15 years

Option 2: 50 % of the effective costs excluding VAT, limited to 1,250 € / kWp¹

Condition: Self-consumption and waiver of a guaranteed feed-in tariff

Business profit

The commercial profit is calculated from the revenue and operating expenses of the photovoltaic system. Revenue includes the sale of electricity production (at the subsidised price) to the electricity grid operator, directly related to the reporting year, included in the advance payments and the statement (if applicable). In the case of first-time declarations, only advance payments may be available.

Operating expenses

Expenses related to the photovoltaic system, such as meter costs and interest related to the financing of the system, are fully deductible as operating expenses. If the financing of the installation is covered by a global construction mortgage, the interests are deductible in proportion to the

¹ Temporary premium increase from 50% to 62.5%, limited to €1,562.5/kWp, subject to compliance with various technical conditions for all orders placed before 30 June 2024.



amount of the installation compared to the global amount. The amount of depreciation is also an operating expense deductible from the realised business profit (see Form 121).

Depreciation

According to Circular L.I.R. no. 14/2 of 15 June 2023 (Direction des Contributions Directes), the usual duration of use of a photovoltaic system is at least 20 years and the possible depreciation rate is fixed at 5% per year.

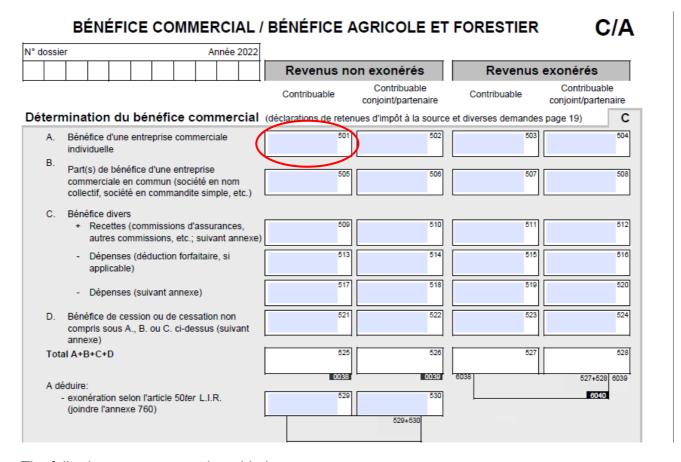


3. Forms

The tax return for a natural person operating a photovoltaic system consists of several forms, described below. The first declaration should be made for the year in which the investment was made, even if the taxpayer has not yet received any revenue. All supporting documents must be attached to the various forms (copies of invoices, copies of advances, etc.).

3.1. Income Tax Return (Form 100)

The realized business profit is entered in box 501 of the **Income Tax Return (Déclaration pour l'impôt sur le revenu Form 100)** under the heading "business profit" (page 5).



The following annexes must be added:

- Photovoltaic system (Form 121)
- Acquisitions of depreciable capital assets (Form 113)



3.2. Photovoltaic system (Form 121)

This annex is used to determine the **commercial benefit** to entered in box 501 of the income tax return.





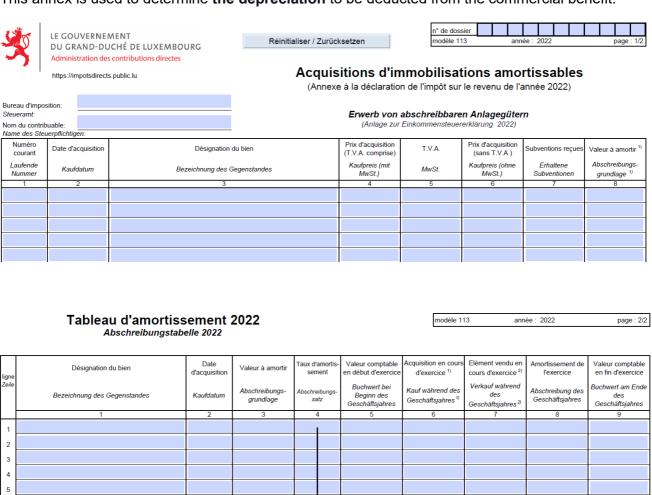
20 21 22

1) Suivant détail au recto / Aufzählung auf der Vorderseite

2) Sans T.V.A. / Ohne MwSt.

3.3. Acquisitions of depreciable capital assets (Form 113)

This annex is used to determine the depreciation to be deducted from the commercial benefit.



5 %

Part privée / Privatanteil

Amount to be entered

on form 121

Part commerciale / Geschäftsanteil



4. Value Added Tax - VAT

Any individual who operates a photovoltaic system is considered to be liable for VAT. However, if the annual turnover is less than €35,000, the private individual is subject to the provisions of Article 57 of the VAT Act and benefits from the "régime particulier des petites entreprise" (special scheme for small businesses). In this case, they are exempt from making a VAT return, but must report their turnover for the previous year2 to the Registration Duties Authority by 1 March each year.

Anyone subject to the small business scheme is also free to opt for the standard VAT scheme. In this case, they get the right to reclaim input VAT and a regular VAT number.

VAT registration entails the obligation to submit an annual VAT declaration (via MyGuichet or via forms to be downloaded from the AED website). In this case, the VAT on the investment (a priori 17 % in the case of a supplier from the Grand Duchy of Luxembourg) is deductible and the amount is taken into consideration when calculating the depreciation is the amount excluding VAT of the investment (reduced by the subsidies obtained). As for revenue, the VAT collected on the sale of electricity (8%) must be declared annually using the form that can be downloaded from the Administration de l'Enregistrement et des Domaines (http://www.aed.public.lu/formulaires/index.html).

More detailed information can be found in "article 1, paragraphe 2 du Règlement grand-ducal modifié du 21 janvier 1980" (article 1, paragraph 2 of the amended Grand-Ducal Regulation of 21 January 1980 laying down the conditions and procedures for the application of the tax exemption scheme provided for in respect of value added tax:

« L'assujetti soumis au régime de franchise de taxe prévu à l'article 57, paragraphe 1er, de la loi TVA est déchargé de l'obligation de dépôt de déclarations prévue à l'article 64, paragraphe 1er, de la loi TVA, à condition de ne pas avoir effectué, au cours de l'année civile, des prestations de services pour lesquelles le preneur du service non établi à l'intérieur du pays est le redevable de la taxe, et de n'être redevable, en vertu des dispositions de l'article 61, d'aucune taxe devenue exigible au cours de cette année civile.

L'assujetti visé à l'alinéa 1 doit cependant, avant le premier mars de l'année civile, informer l'Administration de l'enregistrement et des domaines, désignée ci-après par « l'administration », par écrit du montant de son chiffre d'affaires réalisé au cours de l'année civile précédente.

4.1. 4% VAT

Since the 1st January 2023, the reduced rate of 3%3 has been applied to the supply and installation of solar panels, provided that the panels are installed on or in the immediate vicinity of private housing or public and other buildings serving the public interest. This reduced rate of 3% should not be confused with the 3% housing VAT.

All the components needed to install and operate the solar panels are covered by the reduced rate, including the following: photovoltaic panels (or hybrid solar collectors), mounting rails, DC and AC electrical wiring directly linked to the photovoltaic system, inverter, electrical protection devices, two-way meter; and for solar thermal panels: thermal solar collectors, mounting rails, DC and AC electrical wiring directly linked to the photovoltaic system, inverter, electrical protection



devices, two-way meter; and for solar thermal panels: solar thermal collectors, mounting rails, DC and AC electrical wiring directly linked to the photovoltaic system, inverter, electrical protection devices, two-way meter; and for solar thermal panels: solar thermal collectors, mounting rails, DC and AC electrical wiring directly linked to the photovoltaic system: solar thermal collectors, mounting rails, insulated piping, solar storage tank, calorimeter, peripheral installations (power supply, regulation, heat exchangers); and of course the installation costs.

For photovoltaic solar panels, a storage installation (battery) is therefore not concerned.

In practical terms, this means:

- in the case of a completed supply/service, the applicable VAT rate is that in force on the day the supply/service is carried out (completed) (operative event)
- in the case of payments on account, the applicable VAT rate is that in effect on the day of collection of the payment on account.



5. Example of tax treatment for a 40 kW_p installation

5.1. Assumptions

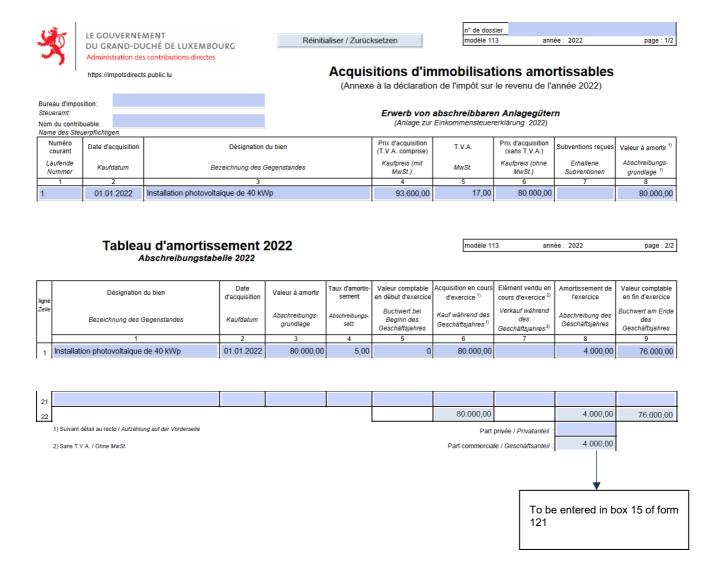
Acquisition cost of a 40 kWp photovoltaic system on 01/01/2023:										
	80.000 € hVAT	13.600 € (17 %)								
	93.600 € incl. VAT									
Taxable person subject to VAT										
Depreciation (5 %) : 4.000 € per year (5 % of 80.000 €)										
Annual electricity proc	luction	37.334 kWh/y								
Total feed-in with guaranteed feed-in tariff of €0.1194/kWh		Self-consumption with a negotiated tariff of 0,099 ² €/kWh								
Annual revenue	4.458 €	2.513³ €								

 $^{^2\}underline{\text{https://assets.ilr.lu/energie/Documents/ILRLU-1685561960-1173.pdf},~80\%$ of the average for the period January-November 2023

³ Self-consumption rate of 15%, resulting in the injection of 31,734 kWh



5.2. Form 113 (Depreciation)



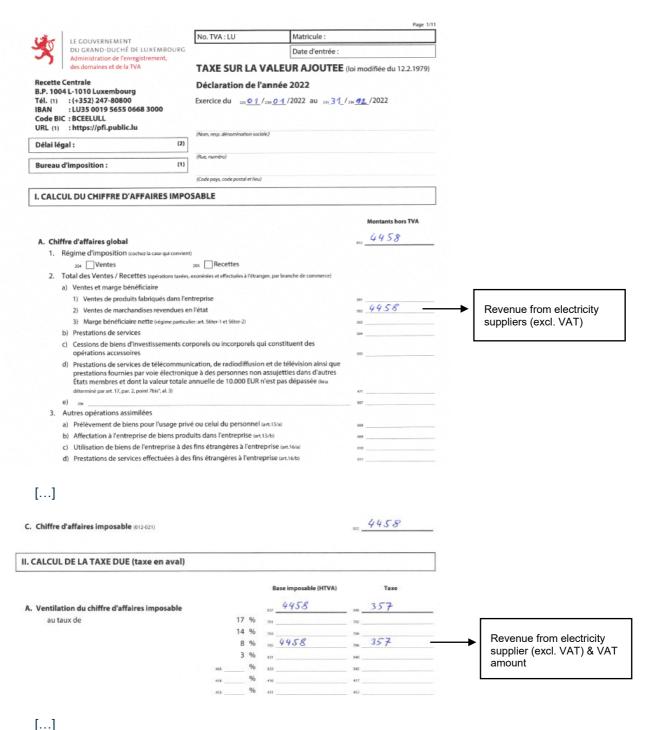


5.3. Form 121 (Photovoltaic system)

7	DU GRA		ENT HÉ DE LUXEMBOUR ontributions directes	modè	dossier de 121	anr	née :	2022			page	: 1/1	
	*	potsdirects.											
Bure	Bureau d'imposition:							Réini	tialiser				
	Nom du contribuable:												
	Installation photovoltaïque												
	(Annexe à la déclaration de l'impôt sur le revenu de l'année 2022)												
ligne													
	Adresse de l'installat	tion						e de cre		-			
2		-					Dat	e de ce	ssation:	-			
3	Puissance de l'instal	lation:	kw		Assujett	TVA:	oui		non				
4	1) Déterminati	ion du b	énéfice par comp	araison des	s recettes	et des	dép	ense	s d'ex	ploit	ation		
							_	Montan	t TVA	- 	Réservé	à	
5	Détail des recettes d'exploitation				Montar	t hors TVA	L	comp		ľad	lministra	tion	
6	6 Recettes fournisseur d'électricité					4.458,00			4.814,00				
7						П							
8	Loye	ers reçus					П						
9	Autre	es recettes	(*)										
10	**				+	4.458,00	+		4.814,00				
11	Détail des dép	enses d'ex	ploitation										
12	Intér	êts débiteu	rs et frais bancaires										
13	3 Assurances												
14	14 Electricité					160,00			172,80				
15	Amortissement (annexe modèle 113)					4.000,00			4.000,00				
16	16 Loyers payés						Ш						
17	17 TVA payée												
18	Autre	es frais (*)											
19	Marchan			_	-	4.160,00	-		4.172,80				
20			crire dans la ormulaire 100	•	=	298,00	=		641,20				



5.4. Annual return of Value Added Tax



[...]



III. CALCUL DE LA TAXE DEDUCTIBLE (taxe en amont) 12,8 A. Total de la taxe en amont 1. Total taxe en amont sur entrées de marchandises a) Taxe facturée par d'autres assujettis pour des biens et des services fournis b) Taxe déclarée ou payée sur des acquisitions intracommunautaires de biens, à l'exclusion des acquisitions intracommunautaires de tabacs fabriqués c) Taxe déclarée ou payée sur des biens importés, à l'exclusion des importations de tabacs fabriqués et des importations pour des besoins privés d) Taxe déclarée comme débiteur (cf points II.E et F) Deductible VAT as detailed 2. Total taxe en amont sur acquisitions d'immobilisations on page 6 of the VAT a) Taxe facturée par d'autres assujettis pour des biens et des services fournis return b) Taxe déclarée ou payée sur des acquisitions intracommunautaires de biens, à l'exclusion des acquisitions intracommunautaires de tabacs fabriqués c) Taxe déclarée ou payée sur des biens importés, à l'exclusion des importations de tabacs fabriqués et des importations pour des besoins privés d) Taxe déclarée comme débiteur (cf points ILE et F) [...] IV. CALCUL DE L'EXCEDENT 103 <u>35 7</u> A. Total de la taxe en aval (report du point IIH.) 12,8 B. Total de la taxe en amont déductible (report du point III.D.) 344,2 C. Excédent (un éventuel excédent de taxe en amont est à marquer d'un signe négatif) (103-104)

[...]

Annexe à la déclaration de la 1	TVA .				
	TOTAL le cas échéant TVA comprise	96	QUOTE-PART des frais généraux sans TVA	COMMERCIALE de la TVA facturée (5)	
A. Total frais généraux			112 160	110 12,8	
1. Salaires bruts (6)	29	240	194		
dont salaires productifs	241	242	163		
2. Traitements bruts (6)	244	245	240		
3. Salaires occasionnels	247	248	149		
 Cotisations sociales légalement obligatoires (part patronale) (7) 	250	261	153		
5. Assurance-accident	253	294	365		
6. Commissions	2%	257	258	259	
 Frais de voyage et de représentation du personnel 	260	261	263	263	
8. 284	205	266	263	268	
9. Indemnité pour comptabilité (8)	209	270	271	272	
10. 273	274	275	276	277	
11. 278	279	280	281	282	
 Frais de voyage et de représentation du patron 	283	294	HD_		Operating costs (cleatricity)
13. Electricité	285	286	260	12,8	Operating costs (electricity)
14. Gaz	282				as per form 121 (excl. VAT)
15. Eau	393	294	295	290	& VAT amount
16. Chauffage	367	298	299	300	
17. Téléphone	501	200	303	201	