

Manual

for

Producers and Importers

Table of Contents

1. Legal framework

- 1.1. Registration obligation
- 1.2. The trade-in bond
 - 1.2.1. About Household WEEEs
 - 1.2.2. About Professional WEEEs
- 1.3. Who is subject to the trade-in bond?
- 1.4. Which appliances are covered by the trade-in bond?
- 1.5. How to meet the requirements of the trade-in bond

2. Becoming a member of Ecotrel

- 2.1. Who is Ecotrel?
- 2.2. What does Ecotrel's mission involve?
- 2.3. Why subscribe to Ecotrel?
- 2.4. Who is eligible to become a member of Ecotrel?
- 2.5. How to subscribe to Ecotrel
- 2.6. Retroactive membership of Ecotrel

3. Recycling fee

- 3.1. Why must you pay a recycling fee?
- 3.2. For which equipment are you charged a recycling fee?
- 3.3. When is the recycling fee due?
- 3.4. What is the meaning of "commercialization" (in Luxembourg)?
- 3.5. Some examples of specific cases where a recycling fee is not charged
- 3.6. Who collects the recycling fee?
- 3.7. Retroactive recycling fees
- 3.8. Amount due in recycling fees
- 3.9. Modifications to the recycling fee
- 3.10. Can you charge your clients for the recycling fee?
 - 3.10.1. Obligation or choice?
 - 3.10.2. How to charge a client for the recycling fee?

4. Declaration

- 4.1. Why is a declaration necessary?
- 4.2. Establishing a declaration
 - 4.2.1. Which information do I need to provide?
 - 4.2.2. Modifying information
- 4.3. Who is responsible for submitting the declaration?
- 4.4. When should the declaration be submitted?
 - 4.4.1. Quarterly declaration
 - 4.4.2. Annual declaration
- 4.5. How to submit a declaration to Ecotrel
 - 4.5.1. By Internet

- 4.5.2 By post, fax or email
- 4.6. Can I be exempted from the obligation to submit a declaration?
- 4.7. Confidentiality of the information supplied
- 4.8. Auditing of declarations
 - 4.8.1. Annual attestation
 - 4.8.2. Auditing by an auditor appointed by Ecotrel
 - 4.8.3. Auditing by Ecotrel

5. Reimbursement of the recycling fee

- 5.1 When am I eligible for a refund of recycling fees?
 - 5.1.1 Exportation
 - 5.1.2. Use other than that specified in the official list of EEEs
 - 5.1.3. Sales with foreign VAT applied
 - 5.1.4. Defective goods
- 5.2. Who refunds your recycling fee?
- 5.3. How can I have my recycling fee refunded?
 - 5.3.1. General Conditions
 - 5.3.2. Establishing a claim for reimbursement
 - 5.3.3. Who submits the claim for reimbursement?
 - 5.3.4. When must the claim for reimbursement be submitted?
 - 5.3.5. How to submit a refund declaration
- 5.4. How much of the recycling fee is refundable?
- 5.5. Exhaustion of entitlement to a refund
- 5.6. Suspension of the refunding of recycling fees

6. Compensation for the collection of WEEEs by the Producer

7. Invoicing

- 7.1. How are invoices established?
- 7.2. Invoice or credit note?
- 7.3. When does invoicing take place?
 - 7.3.1. Quarterly invoicing
 - 7.3.2. Annual invoicing
 - 7.3.3. Fixed annual contribution invoicing
 - 7.3.4. Payment

8. Transfer of the obligation to a foreign supplier

9. Documents

- 9.1. Legislation
- 9.2. Internal documents

Manual for Producers and Importers

1. Legal framework

The modified Grand-ducal regulation of 18/01/05 which transposes the directives 2002/95/CE and 2002/96/CE relating to Waste Electrical and Electronic Equipment imposes a number of obligations on producers and on importers.

1.1. Registration obligation:

All Producers and Importers of EEEs are obliged to register with the Ministry for the Environment. They must declare the EEEs they have placed on the Luxembourg market and prove that they meet the obligations incumbent on them or that they have established an agreement with an approved body, which takes on those obligations as described in the regulations.

1.2. Trade-in bond:

1.2.1. For Household WEEEs:

Each Producer or Importer is responsible for financing the collection from selective collection points, the processing, the recovery and the non pollution-causing elimination of WEEE of household origin, collected via local and state structures.

This funding applies to:

- The treatment of historical waste (sold prior to the 1/04/06)
The funding is calculated in proportion to market shares since the 1/04/06
- The guarantee for the treatment of waste from equipment sold after the 13/08/05
The funding is collected via a recycling fee applied at the sale of the appliance

Note: in the Ecotrel system, both types of funding are covered by a single recycling fee.

1.2.2. About Professional WEEEs:

Producers and importers are obliged to contribute financially to the collection of WEEEs from origins other than households, only when they sell new EEEs of a similar nature and/or function to the WEEE being replaced, and within the limits of a one-for-one exchange. In this case, the point from which the collection takes place for which the Producer or Importer is obliged to contribute financially is the client's premises.

In addition, if it makes no specific agreement with its client, the Producer or Importer will be obliged to finance the future collection and processing of the EEEs it has sold, when the client no longer wishes to keep them.

1.3. Who is subject to the trade-in bond?

Producers (any natural or legal person who produces and commercializes one or more of the EEEs in the list).

Importers (any natural or legal person other than the Producer, who imports and commercializes one or more of the EEEs in the list). Any natural or legal person whose headquarters are located outside of Luxembourg territory and who sell to users located in Luxembourg, one or more of the EEEs in the list (this especially applies to e-commerce), is considered an Importer.

1.4. Which appliances are covered by the trade-in bond?

All the Electrical and Electronic Equipment in the list are subject to the trade-in bond. A distinction is drawn between household and professional EEEs. Household EEEs are any type of equipment intended for normal household usage, or for usage in a similar way in companies.

By special exemption from the above-mentioned rules, the equipment in the list that forms an integral part of another system marketed as a whole unit and not included in the list are not subject to the trade-in bond.

The list used by Ecotrel has been approved by the relevant authorities.

1.5. How to meet the requirements of the trade-in bond.

As Producer or Importer, two possibilities are available to you:

- You are a member of Ecotrel, which ensures the practical development of a system which fully satisfies the requirements of the trade-in bond, in compliance with the terms of the modified Grand-ducal regulation of 18/01/05.
- You establish a (personal) waste management plan, in compliance with the terms of the modified Grand-ducal regulation of 18/01/05.
In addition, you must take out a recycling insurance policy, or deposit the amount necessary to cover the future recycling of the EEEs you place on the Luxembourg market each year.
Finally, as regards household WEEEs, you are responsible for financing historical WEEEs in proportion to your market share from the 1/04/06.

Any Producer or Importer who does not take account of the trade-in bond and/or who obstructs the verification operations carried out by the surveillance authorities, risk being sanctioned according to the law.

2. Becoming a member of Ecotrel

2.1. Who is Ecotrel?

Ecotrel is a non profit-making association created following the publication of the European directives 2002/95/CE and 2002/96/CE.

Ecotrel offers the Producers and Importers of EEEs a global solution for satisfying the requirements of the trade-in bond with which they are obliged to comply under the modified Grand-ducal regulation of 18/01/05.

In collaboration with approved enterprises, Ecotrel supervises the collection and processing of WEEEs from the time they leave the recycling depots and other structures available to consumers. These enterprises are selected based on the cost-efficiency of their services and of their experience as regards the ecological processing of WEEE. Ecotrel also reports to the relevant authorities.

The processing and recycling system is funded by the recycling fee paid by the consumer upon purchasing a new appliance. The philosophy underlying the system is as follows: the polluter must pay for the pollution it causes, and must thus contribute to caring for the environment.

2.2. What does Ecotrel's mission consist of?

Ecotrel ensures that the trade-in bonds put into practice.

The following are some of Ecotrel's activities:

- Organizing collection from selective WEEE collection points, in compliance with the modified Grand-ducal regulation of 18/01/05.
- Organizing the processing of the WEEEs collected.
- Monitoring that the results projected under the Grand-Ducal regulation are achieved.
- The other obligations it has consented to fulfill.

2.3. Why subscribe to Ecotrel?

Outsourcing the actions required of you under the trade-in bond imposed by the modified Grand-ducal regulation of 18/01/05 can save you a great deal of time and energy.

Ecotrel is responsible for organizing the collection (from selective collection points) and the processing of WEEEs throughout the territory of the Grand-Duchy of Luxembourg. Ecotrel also reports to the relevant authorities.

In addition, Ecotrel guarantees for its members, the future funding of any EEEs they place on the market from the 13/08/05.

2.4. Who is eligible to become a member of Ecotrel?

Strictly speaking, only Luxembourg-based producers (and any producers considered as such) and importers of EEEs are eligible to become members of Ecotrel.

Foreign suppliers may also adhere to Ecotrel, provided they meet certain conditions. The same is true for foreign companies that are considered importers.

In certain cases, federations or associations may also adhere to Ecotrel on behalf of their members.

2.5. How to subscribe to Ecotrel.

First, it is necessary to belong to one of the federations of the **clc** or the "Fédération des artisans". Account taken of the work that has been carried out since 2001 by these federations towards the creation of Ecotrel, membership is retroactive to include 2004.

To apply for membership of Ecotrel, download the Accession agreements and the amendments to these agreements available from the Ecotrel website (www.ecotrel.lu), or submit an application by mail, fax or email to the following address:

Ecotrel asbl
26, rue Léon Laval, L-3372 Leudelange
Fax (00352) 26.0.98.736
Email: andy.maxant@ecotrel.org

In this case, you will receive in duplicate the Accession agreements and the amendments to these agreements, together with an identification form.

You must then fill in these documents, sign them and send them back by regular mail to the above address. Ecotrel will sign both copies of the Accession agreement and the amendment and will send you back your copy, along with your membership number and your user code and password, which you will need in order to complete your on-line declaration.

In adhering to this agreement, a Producer or Importer becomes an Active member of Ecotrel.

Importers may choose either to declare themselves the EEEs they import, or to commission one or more of their foreign suppliers to do so. If the importer chooses to commission all of its foreign suppliers in this way, it must only submit an annual declaration via the Communication Form for commissioned suppliers, together with the Commission Agreements duly signed by both parties.

Foreign suppliers commissioned by their clients in Luxembourg may subscribe to Ecotrel as indicated in this paragraph. They are exempt from meeting the condition of prior membership of one of the federations dependent on the **clc** or the "Fédération des artisans".

Particular case : Foreign companies who sell directly EEEs to Luxembourg users must pay an annual fixed contribution as describe at article 3 § 4 in the accession agreement and which amounts are at point 7.3.3 from this manual. These societies are also exempt from meeting the condition of prior membership of one of the federations

Because of this, foreign companies are not considered as active members, but acceding members. The terms and conditions for declarations made by them are explained later in this manual.

2.6. Retro-active membership of Ecotrel

Producers and Importers may sign an Accession agreement to become a member of Ecotrel at any time.

This has no bearing on the fact that Ecotrel's system comes into effect from the 01/09/05, and that the producers and importers have every opportunity to ensure that, at that date, they comply with the regulation.

Any producers and importers who enter into an Accession agreement with Ecotrel after the 01/09/05 must therefore:

- make retroactive payments of the fee from 2004 (or at the creation date of the company if it is after 2004), to the federation of which they are a member as part of the **clc** or the "Fédération des artisans" (if they reside in Luxembourg and they do not yet belong to this federation).
- Pay recycling fees to Ecotrel for the EEEs covered by the trade-in bond, which they placed on the Luxembourg market after the 01/01/06, date at which the perception of recycling fees came into effect.
- Foreign companies who sell directly EEEs to Luxembourg users must pay an annual fixed contribution at the beginning of the year for the current financial year. It relates to the 2008 financial year for the first time. The annual fixed contribution is reviewed annually by the General Assembly, on proposal from the Board of Directors.

The Producer or Importer in question may only be exempted from the above-mentioned obligation if:

- o it submits an individual plan for the management of WEEEs, approved by the Ministry for the Environment for the period preceding its application for membership;
- o it can prove that all of its Luxembourg clients are active members of Ecotrel (this applies to foreign suppliers).

This regulation avoids any discrimination against the producers and importers which ensured their compliance within the time imparted and which consequently, pay their recycling fees to Ecotrel since 01/01/06.

3. Recycling fee

3.1. Why must you pay a recycling fee?

The producers and importers affiliated with Ecotrel, pay a recycling fee in order to finance the activities of Ecotrel. In the majority of cases, they must charge their clients with this recycling fee. This means that, in the end, producers and importers do not bear the costs of processing for WEEEs.

The recycling fee is not a tax of any kind, but simply a financial participation in the costs of recycling.

3.2. For which equipment are you charged a recycling fee?

You must pay a recycling fee for all the equipment listed, which you commercialize in Luxembourg.

3.3. When is the recycling fee due?

- For manufactured or imported equipment:

As soon as you receive the invoice detailing the recycling fees due, you must pay the amount in full. The invoice is established following the submission of a declaration form including details of the number of appliances placed on the market in Luxembourg (during a given period).

As stipulated in the Accession agreement, recycling fees are payable at the time of "commercialization" of the EEEs in Luxembourg. The time of "commercialization" is determined in compliance with the rules defining when VAT is payable. This means, for importers, that the recycling fee should be paid at the time of importation.

For foreign suppliers, the recycling fee is due at the time of exportation.

- For equipment/raw materials purchased from a Luxembourg supplier:

The due date for payment of the recycling fee is determined by an agreement signed between the Luxembourg supplier and the buyer (see: Payment Conditions for the different product purchase invoices).

3.4. What is the meaning of "commercialization" (in Luxembourg)?

"Commercializing (in Luxembourg)" refers to the operation via which VAT is payable (in Luxembourg) for the first time. Included under this definition are any sales carried out by suppliers residing abroad, who sell the EEEs directly to users located in Luxembourg.

This definition covers not only the deliveries for which Luxembourg VAT is indeed payable, but also local deliveries which meet specific criteria for exemption from VAT (for example: tax free shop, deliveries made to international institutions, diplomats,

etc). Given that the philosophy of the recycling system has been defined ("the polluter must pay for the collection and processing of equipment issued in Luxembourg"), the above-mentioned deliveries may not therefore benefit from any form of exemption with Ecotrel.

The use of EEEs for demonstration or display purposes must also be considered a commercialization of these products on the Luxembourg market.

This definition of the term "commercialization" implies that there is no obligation to declare:

- equipment stored by an Importer in a customs or VAT warehouse, to be later commercialized abroad;
- equipment manufactured by a Producer and commercialized abroad.
- equipment sold in a foreign country with a Luxembourg VAT rate to micro-enterprises working under a specific tax regime characterized by an exemption basis of VAT (these companies do not have an intra-Community VAT number, do not charge and recover the VAT in their country).

3.5. Some examples of specific cases where a recycling fee is not charged :

You are not obliged to pay a recycling fee for:

- equipment that you import, stock in a customs or VAT warehouse and commercialize abroad.
- equipment in transit, which you import and stock in a warehouse (ordinary), and which you then export.
- equipment that you manufacture in Luxembourg and commercialize abroad.
- equipment sold in a foreign country with a Luxembourg VAT rate to micro-enterprises working under a specific tax regime characterized by an exemption basis of VAT (these companies do not have an intra-Community VAT number, do not charge and recover the VAT in their country).

3.6. Who collects the recycling fee?

- For manufactured or imported equipment:

Based on an invoice established by Ecotrel following your declaration, you must pay a recycling fee for the EEEs which you manufacture or import and commercialize on the Luxembourg market.

- For equipment purchased from a Luxembourg-based supplier or a foreign supplier commissioned by you:

You must pay the recycling fee to your supplier. In the context of the supplier-client relationship, this fee forms part of the contract price. It must therefore be mentioned at the time of settlement of the contract.

3.7. Retroactive recycling fee

The trade-in bond as regards producers and importers comes into effect on the 13/08/05. Nonetheless, the surveillance authorities accept that producers and importers comply à posteriori, by means of a membership agreement with Ecotrel.

Any producer or importer which enters into an Accession agreement with Ecotrel after the 01/09/05 must therefore also pay the recycling fees due for any EEEs commercialized by them since the 01/01/06, initial date of perception of the recycling fees.

The Producer or Importer in question may only be exempted from the above-mentioned obligation if:

- it submits an individual plan for the management of WEEEs, approved by the Ministry for the Environment for the period preceding its application for membership;
- it can prove that all of its Luxembourg clients are active members of Ecotrel (this applies to foreign suppliers).

This regulation avoids any discrimination against those producers and importers who ensured their compliance within the time imparted and whose recycling fees are consequently paid to Ecotrel since 01/01/06.

3.8. Amount of the recycling fee

The amount due in recycling fees is determined by the General Assembly of Ecotrel, based on proposals from the Board of Directors.

It takes account of the (probable) collection and processing expenses per category of equipment, and of the recycling rates to be reached.

3.9. Modifications to the recycling fee

The recycling fee may be revised on an annual basis.

Ecotrel will send written notice to all its members, of any modifications made to the recycling fee.

Modifications only apply to equipment commercialized in Luxembourg from the third month following this notification.

However, should the economic situation change unpredictably, the Ecotrel's General Assembly may decide at any time to change the conditions and amounts of the Recycling Fee payable by Active and Acceding Members.

3.10. Can you charge your client for the recycling fee?

3.10.1. Obligation or choice?

1. Obligation on sales (or hire-purchase)

From the 1st of January 2006, you are legally bound (under the terms of the Accession agreement) to charge the recycling fee and to mention it distinctly, as described in point 3.10.2.

2. Choice in other situations (hire, leasing, etc.)

If the EEEs are not subject to a purchase (or hire-purchase) agreement, but rather to another type of contract (for instance hire, leasing, etc.), you are not obliged to charge the recycling fee.

In such cases, you may choose either to charge the recycling fee and clearly mention it on the invoice, or to bear the cost of the recycling fee yourself.

3. Are certain clients eligible for dispensation from the recycling fee?

There are certain cases where you are exempt from having to charge your client with the recycling fee:

- Exportation: exportation refers to the act by which EEEs are physically sent out of Luxembourg territory, provided that this act can be described as an intra-Community delivery, or as an act of exportation in VAT terms.
- Sales with foreign VAT: this refers to an act of sale for which foreign VAT must be paid by the intermediary or the final point-of-sale representative, but which is not exempt from VAT in Luxembourg due to the exportation (for example distance selling, deliveries including installation or assembly)
- Sales of equipment in a foreign country with a Luxembourg VAT rate to micro-enterprises working under a specific tax regime characterized by an exemption basis of VAT (these companies do not have an intra-Community VAT number, do not charge and recover the VAT in their country).

In both these cases, you may claim the reimbursement of the recycling fee which you paid to your supplier or to Ecotrel.

For all other clients, you must apply the recycling fee. Consumers who may claim exemption from VAT for local deliveries (Tax Free Shops, embassies, NATO, EU, etc.) must also pay this fee. The recycling fee is not a tax of any kind, but is an integral part of the contract price.

3.10.2. How to charge a client for the recycling fee?

- **VAT-liable clients:**

The recycling fee must be charged and is added to the price for which the EEE is sold, hired, leased, etc. The total amount due is therefore the sum of the price of the EEE and its recycling fee.

When establishing the contract, the amount due in recycling fees must therefore be clearly and expressly communicated to the client. It is therefore very important that, whenever the price of the EEE is indicated (on the order form and/or the invoice and/or the contract, etc.) it is clearly stipulated that a recycling fee has been applied to the EEEs.

In order to ensure protection against any modifications that may be made to the amount due in recycling fees between settlement of the contract and delivery, it is also recommended that, next to the prices on order forms, the following mention should be made: "subject to changes in price in the event of modifications made to the recycling fee".

In practical terms, the recycling fee must be referred to on invoices in at least one of the following ways:

1. Price of the equipment ...€ (VAT incl.)
Recycling fee ...€ (VAT incl.)
Total price ...€ (VAT incl.)

2. Price of the equipment ...€ (VAT not incl.)
Recycling fee ...€ (VAT not incl.)
Sub-total ...€ (VAT not incl.)
VAT 15% ...€
Total price ...€ (VAT incl.)

4. Total price of the equipment (VAT incl.) together with a reference to the recycling fee (...€ VAT incl.)

5. Total price of the equipment (VAT incl.) with a clause stipulating that a recycling fee was charged on the EEEs.

6. General Sales Conditions stipulating that a recycling fee was charged on the EEEs.

The recommended terms are "Recycling fee", or where necessary "Ecotrel". The Ecotrel logo, in this particular context, can appear on the members' invoices.

- **Individual consumers (non VAT-liable):**

The recycling fee is of course payable by individual consumers. It must be visible. It must feature on advertising brochures and/or shop labels and/or order forms and/or invoices and/or receipts issued at the checkout and/or contracts, under the same terms and conditions as those described above.

Nevertheless, for sales to individual consumers, Ecotrel accepts that the recycling fee be mentioned at least either:

- On marketing brochures, with a sentence (and where necessary a list of the different amounts payable in fees per category of EEE) explaining that a recycling fee has been charged for the EEE in question.
- At the point-of-sale with one or more posters explaining that a recycling fee has been charged for the EEEs and specifying the amounts payable in recycling fees per category of EEE.

Any communication concerning recycling fees payable by individual consumers is subject to prior approval by Ecotrel.

4. Declaration

4.1. Why is a declaration necessary?

Ecotrel's activities are primarily funded by the producers and importers. They pay Ecotrel a recycling fee for every appliance they put on the market in Luxembourg.

Ecotrel must therefore be informed of the categories of appliance (according to the classification of EEEs subject to the trade-in bond) and the quantities you commercialize in Luxembourg.

Based on this information, the amount due in recycling fees is calculated and invoiced to the Producer or Importer.

In addition, Ecotrel is obliged to globally inform the surveillance authorities of this information, before the 31st March each year.

4.2. Establishing a declaration

4.2.1. Which information do I need to provide?

On the declaration form, you must indicate the number of appliances per category you have put on the market.

For importers, this should mean they have to declare all the appliances imported by them (even if these have not yet been sold).

For foreign suppliers, the declaration concerns sales made to importers and users in Luxembourg, as soon as the sale is realized.

WARNING: if Ecotrel finds the information provided in the declaration to be false, you are legally bound to pay both the defrauded recycling fees owing

plus late-payment interest (equal to the legal interest rate), and a fine equal to twice the amount of the defrauded recycling fees.

4.2.2. Changes to information

You must inform Ecotrel immediately by ordinary mail or by email of any changes to the information provided that may have repercussions on the amount of recycling fees due.

4.3. Who must submit the declaration?

All declarations should normally be submitted by the producer or importer itself.

The importer may however commission one or more foreign suppliers to fulfill its own obligation to declare the EEEs delivered by those suppliers. For all other EEEs, the importer must always submit all the declarations itself.

4.4. When should the declaration be submitted?

You are required to submit a quarterly or annual declaration, depending on the amount of your fee.

4.4.1. Quarterly Declaration (only if the amount you are required to pay in annual fees is over or equal to 500 € VAT not included)

Before the 21st of the month following each quarter (21/04, 21/07, 21/10 and 21/01), you must submit to Ecotrel the declaration form for all the EEEs put on the market during the past quarter.

Your initial quarterly declaration however, must include the EEEs you commercialized in Luxembourg between the 01/01/06, date from which the Ecotrel system is effective, and the last day of the quarter during which the Accession agreement was signed, start and finish dates included (see: Retro-active membership of Ecotrel). This initial declaration must be submitted to Ecotrel before the 21st of the month following the quarter during which the Accession agreement came into effect.

WARNING: Audits may be carried out by an external auditor/accountant designated by Ecotrel.

WARNING: if the declaration is not submitted on time, Ecotrel may commission an auditor to establish this declaration (and the previous declarations if these are also absent). The producer or importer is bound by contract in this case, to collaborate fully and to give the auditor access to its premises and to all the pertinent accounting documents. The expenses incurred by this action are payable by the Producer or Importer who remains at fault.

4.4.2. Annual declaration (only if the sum of your annual levy is under 500 € VAT not included)

Before the 28th February each year, you must submit to Ecotrel the declaration form pertaining to the equipment you placed on the market during the preceding calendar year.

Your first annual declaration will however pertain to the equipment you commercialized in Luxembourg between the 01/01/06, initial date of application of the Ecotrel system, and the 31st December of the year following the signature of the Accession agreement, start and finish dates included (see. Retroactive membership of Ecotrel). This initial annual declaration must be submitted by the 28th February of the following the year during which the Accession agreement was signed.

WARNING: Audits may be carried out by an external auditor/accountant designated by Ecotrel.

WARNING: if the annual declaration is not submitted on time, Ecotrel may commission an auditor to establish this declaration. The producer or importer is bound by contract in this case, to collaborate fully and to give the auditor access to its premises and to all the pertinent accounting documents. The expenses incurred by this action are payable by the Producer or Importer who remains at fault.

4.5. How to submit a declaration to Ecotrel.

4.5.1. By internet

You may fill in your declaration form on Ecotrel's website, using the user code and password you received on completing the Accession agreement.

In this way, the information supplied is processed electronically and the risk of any errors occurring is kept to a minimum.

In addition, via this website you can access a detailed overview of all the declarations you have already submitted.

4.5.2. By post, fax or email

You can also use the declaration form attached to the Accession agreement or download it from the website www.ecotrel.lu, and send it by post, fax or email to:

Ecotrel asbl
26, rue Léon Laval, L-3372 Leudelange
Fax (00352) 26.0.98.736
Email: andy.maxant@ecotrel.org

Ecotrel requests that, as far as possible, you complete the declaration form via the Internet. This allows us to reduce our expenses, a saving which in turn will benefit you.

4.6. Can I be exempted from the obligation to submit a declaration?

The companies which import equipment into Luxembourg, are presumed to commercialize this equipment at the time of its importation (see the definition of the term "commercialization"). They are legally bound by the trade-in bond and are obliged to pay a recycling levy to Ecotrel for the imported equipment.

The same companies, which also export this equipment, are eligible for reimbursement of the recycling fee.

In order to keep to a minimum the administrative workload incurred on these companies by the payment and reimbursement of recycling levies, Ecotrel exempts them from the obligation to declare any equipment which is first imported and stocked in Luxembourg (not in a customs or VAT warehouse) before being exported by these companies (in other words, transit).

The term "exportation" refers to the physical shipping of equipment to a destination outside Luxembourg territory, provided that the shipping in question can be considered an intra-Community delivery or exportation as defined in the code pertaining to Value Added Tax.

"Transit" in the context of Ecotrel's regulations, is defined as the physical acquisition of equipment in Luxembourg which is subject to VAT in Luxembourg, but whose eventual destination is another EU member-State or a third-party State, and is exonerated from VAT.

It therefore refers to equipment which is imported, stocked and exported, and which has never been sold, hired out (-lent), etc, to intermediaries, end dealers or consumers in Luxembourg.

WARNING: these importers are only exempt from the obligation to declare the equipment that fits the above description. All the other types of equipment these importers commercialize must be declared (quarterly or annually).

They remain obliged to make an annual declaration (for all the equipment they place on the market in Luxembourg).

An exception is made for the importers who sells equipments in a foreign country with a Luxembourg VAT rate to micro-enterprises working under a specific tax regime characterized by an exemption basis of VAT (these companies do not have an intra-Community VAT number, do not charge and recover the VAT in their country).

The practical consequences of this preferential treatment are that importers do not pay any recycling fee to Ecotrel for this equipment, nor do they claim any refund on payment of recycling fees. In this way, importers can meet their trade-in obligations with minimum effort.

4.7. Confidentiality of the information supplied

Ecotrel is contractually bound to process all the financial and commercial information to which it is privy via its execution of the Accession agreement, in the strictest confidence.

Nevertheless, this obligation is no longer binding where Ecotrel may be obliged to provide information under proper authorization or for any other reason allowed by the law.

4.8. Auditing of declarations

4.8.1. Annual attestation

For quarterly declarations, the declaration pertaining to the fourth quarter (to submit by the 21st January the following year) must be accompanied by a sworn statement, by which the person legally responsible for the firm declares that all four declarations for the year were correct and complete.

Annual declarations must also be certified with a sworn statement from the person legally responsible for the firm.

4.8.2. Auditing by an auditor appointed by Ecotrel

Ecotrel has the right to commission an external auditor or accountant, bound by a professional secrecy agreement, to carry out all the necessary verifications to ensure that the information provided by the producer or importer is correct.

The producer or importer is obliged to provide the external auditor or accountant with all the information and any documents he/she deems necessary to carry out its task in an accurate and efficient way.

The expenses incurred by this audit procedure are normally payable by Ecotrel. They are payable by the producer or importer, should the recycling fees owing, calculated on the basis of the audited declaration, exceed by 10% or more, the sum of all the recycling fees paid.

If Ecotrel finds the information provided in the declaration(s) to be false, the producer or importer is legally bound to pay both the defrauded recycling fees owing plus late-payment interest (equal to the legal interest rate), and a fine equal to twice the amount of the defrauded recycling fees.

4.8.3. Audit carried out by Ecotrel

Provided the member's agreement, Ecotrel reserves the right to carry out the audit operations mentioned above, using its own resources. These audit operations can concern the declarations of past years, up to and including the date of the last Audit.

5. Reimbursement of the recycling fee

5.1. When am I eligible for a refund of recycling fees?

5.1.1. Exportation

An Importer may claim a refund on the recycling fees it paid, as an intermediary or end-dealer, to Ecotrel or its supplier upon acquiring any Electronic or Electrical Equipment that it (subsequently) exported to natural and legal persons established abroad.

The term "exportation" refers to the physical shipping of equipment to a destination outside Luxembourg territory, provided that the shipping in question can be considered an intra-Community delivery or exportation as defined in the code pertaining to Value Added Tax.

A refund of the recycling fee may be claimed from the moment of sale to a natural or legal person established abroad.

An application for refund of recycling fees must be submitted using the declaration form by the 28th February of the year following the months during which the applicant first became eligible for the refund (see above).

5.1.2. Use other than that specified in the official list of EEEs

A producer may claim a refund of recycling fees it has paid to its supplier or to Ecotrel (on acquiring electronic or electrical appliances), where these were used in a way other than that provided for in the official list of EEEs (for example, by assembling them to create new products or by transforming them in any way, to create new products during their manufacture)

Reimbursement of the recycling fee may be claimed from the time when the producer uses the equipment (acquired) in any way other than that provided for in the official list of EEEs. If, however, the equipment (acquired) forms part of an assembly product included in the official list of EEEs, or if it has been transformed into a new EEE included in the official list, the refund of the recycling fee may only be claimed from the time when the new product is put on the market.

For instance, reimbursement of the recycling fees paid for a computer hard-drive, keyboard and mouse, may only be claimed when the Producer commercializes a complete PC unit, composed of those elements.

An application for refund of recycling fees must be submitted using the declaration form by the 28th February of the year following the months during which the applicant first became eligible for the refund (see above).

5.1.3. Sale with foreign VAT

The importer has the right to claim reimbursement of the recycling fees it paid to its supplier on acquiring EEEs which, in its role as end dealer, it subsequently sold to a consumer located abroad, and for which it had to pay foreign VAT, even though this act of sale was not VAT-exempted in Luxembourg (for example, distance selling, delivery including installation or assembly).

Reimbursement may be claimed from the date of sale to the consumer.

An application for refund of recycling fees must be submitted using the declaration form by the 28th February of the year following the months during which the applicant first became eligible for the refund (see above).

5.1.4. Faulty Equipment

The producer or importer has the right to claim reimbursement of the recycling fees paid to Ecotrel at the time of commercialization of any EEEs that it is subsequently obliged to take back, due to their faulty condition.

This right to reimbursement of recycling fees is valid from the time when the producer or importer is able to prove, using a credit note issued to its client, that it has taken back the faulty equipment.

An application for refund of recycling fees must be submitted using the declaration form by the 28th February of the year following the months during which the applicant first became eligible for the refund (see above).

5.2. Who refunds your recycling fee?

For both imported and manufactured equipment, and equipment purchased from a Luxembourg supplier, the recycling fee is refunded by Ecotrel.

5.3. How can I have my recycling fee refunded?

5.3.1. General Conditions

The General Conditions for refund of recycling fees, as mentioned in appendix 5 of the Accession agreement must be accepted. Signing the Accession agreement is proof of acceptance.

5.3.2. Establishing a claim for reimbursement

The producer or importer may submit an application for refund of recycling fees to Ecotrel using its quarterly or annual declaration, depending on the situation.

On the declaration form, you must indicate the type of equipment and the number of items per category, for which a right to the refund of recycling fees is valid.

At the time of invoicing, Ecotrel provides a net calculation of the amounts due in recycling fees and the amount refundable.

WARNING: Audits may be carried out by an external auditor/accountant designated by Ecotrel.

5.3.3. Who submits the reimbursement declaration?

All the declarations are submitted:

- By the producer or importer itself.
- By the commissioned supplier.
- By the intermediary or end dealer (see manual for intermediaries and end dealers)

5.3.4. When must the claim for reimbursement be submitted?

- Quarterly declaration

If you submit your declarations quarterly, you are eligible for refund of the recycling fees each quarter.

Before the 21st of the month following the end of each quarter, you must inform Ecotrel, using the declaration form, of the number of items per category of equipment, for which a right to reimbursement became available during the previous quarter.

- Annual declaration

If you submit your declarations annually, you may obtain a reimbursement of recycling fees once a year.

Before the 28th February each year, you must submit the overall declaration pertaining to the equipment for which a right to reimbursement became available during the previous calendar year.

- Non members of Ecotrel

Non-members may submit a quarterly or annual declaration provided that the amount claimed for reimbursement is minimum 100 € (see: Manual for intermediaries and end dealers).

WARNING: Audits may be carried out by an external auditor/accountant designated by Ecotrel.

5.3.5. How to submit a refund declaration.

- By Internet

You may fill in your declaration form on Ecotrel's website (www.ecotrel.lu), using the user code and password you received on completing the Accession agreement.

In this way, the information supplied is processed electronically and the risk of any errors occurring is kept to a minimum.

- By post, fax or email

You can also use the declaration form attached to the Accession agreement or download it from the website www.ecotrel.org, and send it by post, fax or email to:

Ecotrel asbl
26, rue Léon Laval, L-3372 Leudelange
Fax (00352) 26.0.98-736
Email: andy.maxant@ecotrel.org

The form must be completed in full.

Ecotrel requests that, as far as possible, you complete the declaration form via the Internet. This allows us to reduce our expenses, a saving which in turn will benefit you.

5.4. How much of the recycling fee is refundable?

The producer or importer may only claim a reimbursement of recycling fees for an amount equal to the amount applicable when the EEEs concerned were placed on the market.

5.5. Exhaustion of the entitlement to a refund

The producer or importer may no longer claim reimbursement of recycling fees, and is considered no longer eligible for any recycling fees already refunded if:

- by the 28th February each year, Ecotrel has not received any annual declaration pertaining to the claims for reimbursement of any recycling fees, for which the right to reimbursement became available during the previous calendar year.
- The information and documents that the producer or importer submits or has submitted are either:

not sufficient to support a claim for reimbursement of the recycling fees;

Or contain any other errors or omissions:

- i. which, by their nature, may influence or may have influenced directly or indirectly, the recycling fees paid either to Ecotrel or to a third party, or
- ii. which, by their nature, may influence or may have influenced directly or indirectly, the reimbursement of recycling fees.

Ecotrel and the producer or importer may however establish another agreement.

Where necessary, Ecotrel may demand that the Producer or Importer pay back any recycling fees for which they were reimbursed by Ecotrel. The recycling fees thus demanded are augmented, without prior notice, by interest equal to the legal interest rate plus 3% calculated from the date at which the recycling fees were reimbursed to the Producer or Importer.

5.6. Suspension of the refund of recycling fees

Ecotrel has the right to suspend eligibility for reimbursement of recycling fees if:

- The sum of the recycling fees for which reimbursement has been claimed by the producer or importer during the previous 12 months exceeds 2000 €, or if
- Ecotrel considers that the application for reimbursement of recycling fees is incorrect and/or fraudulent.

Ecotrel will however pay these recycling fees to the Producer or Importer immediately, as soon as it has been shown that the application for reimbursement is valid and compliant with the General Conditions.

6. Compensation for the collection of WEEEs by the Producer

In certain cases, producers may put in place collection and processing systems for WEEEs used by professionals. These WEEEs are considered professional by virtue of their number, and the recycling fee paid for them at the time of purchase may be partially refunded to the Producer at the time of actual collection and processing of these WEEEs.

Compensation of the recycling fee is subject to the following conditions:

- The firm that takes back the WEEEs must be directly appointed to do so by the Producer or its official representative.
- The WEEEs for which a refund of the recycling fee may be claimed must belong exclusively to the Producer's own brand.

- The WEEEs for which compensation for the recycling fee can be claimed must come exclusively from users other than households.
- The WEEEs for which compensation for the recycling fee can be claimed must have been reused or recycled. A traceability system must exist to prove this.
- The producer or its official representative may only employ sub-contractors who are beneficiaries of the authorizations required in Luxembourg and must prove that the recycling and recovery rates projected in the modified Grand-ducal regulation of 18/01/05 have been reached.
- The amount paid in compensation may not exceed the amount paid in contributions.
- Ecotrel's administration charges are deducted from the amount paid in compensation of recycling fees.

Compensation for recycling fees paid may be claimed from the time when the Producer is able to prove, for instance by showing a certificate of recycling, that it has indeed processed the WEEEs.

The application for refund of recycling fees must be submitted using the declaration form by the 28th February of the year following the months during which the applicant first became eligible for the refund (see above).

7. Billing

7.1. How are invoices established?

Using the information provided in the declarations, Ecotrel calculates the amount due in recycling fees for each producer or importer, after deduction of the amount owed in reimbursements by Ecotrel, under the terms of the refund regulations.

7.2. Invoice or credit note?

At the time of invoicing, Ecotrel establishes a net calculation of the recycling fees owing and the recycling fees to be reimbursed.

As a general rule, a producer or importer that declares less than 500 € VAT not included per year and fills in only one annual declaration, remains liable to Ecotrel for recycling fees, despite the net calculation. Where necessary, Ecotrel establishes an invoice for the net amount.

It is possible however, that the producer or importer is eligible for reimbursement of an amount that exceeds the amount it owes Ecotrel. In such cases, Ecotrel establishes a credit note for the producer or importer.

7.3. When does the billing take place?

7.3.1. Quarterly billing

Invoicing based on quarterly declarations will be carried out at the latest at the end of the month during which the declaration was submitted.

If the producer or importer has not sent its declaration 1 month after expiry of the time limit normally imparted, and has not given an objective reason for this delay, Ecotrel will commission an auditor to establish the declaration on behalf of the producer or importer. The producer or importer in question will be required to co-operate fully with the auditor and to provide access to its premises and to any relevant accounting documents. The Auditor's intervention is at the expense of the producer or importer.

7.3.2. Annual billing

Invoices established on the basis of the annual declaration are issued at the latest on the 31st March.

If however the annual declaration is submitted after the 28th February, the invoice will be issued at the latest 30 calendar days after the declaration is submitted.

The same rule applies to credit notes.

7.3.3. Fixed annual contribution invoicing

Foreign companies who sell directly EEEs to Luxembourg users must pay an annual fixed contribution at the beginning of the year for the current financial year:

- €25 exc. VAT where their annual contribution relating to their sales to Luxembourg users is up to and including €250;
- €50 exc. VAT where their annual contribution relating to their sales to Luxembourg users is between and including €251 and €500;
- €100 exc. VAT where their annual contribution relating to their sales to Luxembourg users is between and including €501 and €1000;
- €200 exc. VAT where their annual contribution relating to their sales to Luxembourg users is between and including €1001 and €2000;
- €500 exc. VAT where their annual contribution relating to their sales to Luxembourg users is above €2000.

It will be calculated on the basis of the declarations of the past year. The billing take place in the same time than the annual billing for the concerned acceding members who declares annually or after the last quarterly declaration of the past year for the concerned acceding members who declares quarterly.

7.3.4. Payment

All payments due by the importer or producer may be made by bank transfer to the account number mentioned on the invoice. The invoice is payable in full and without discount on the date mentioned.

If the invoice is not paid within the time imparted, the producer or importer will be liable to Ecotrel for late-payment interest (equal to the legal interest rate), on the amounts outstanding. Ecotrel is not required to provide notice of this.

In case of credit registration, Ecotrel pays the amount owing to the producer or importer into a bank account, using the details provided by this Producer or Importer.

8. Transfer of the obligation to a foreign supplier

The importer may commission its foreign supplier to fulfill a certain number of its obligations towards Ecotrel.

The foreign supplier must however be established in one of the ERA countries (EU countries, Norway, Iceland and Lichtenstein) or in Switzerland.

It may, on behalf of the importer which has requested it to do so, submit declarations, pay recycling fees to Ecotrel, and claim and receive reimbursements of the recycling fees.

The foreign supplier may submit a declaration (quarterly or annual) pertaining to all the equipment it delivers to the importers, which commercialize them under the same trade name. The first quarterly declaration or the annual declaration must be submitted together with:

- A list of the importers concerned
- A "sworn statement" made by the person legally responsible for the firm

Where necessary:

- The foreign supplier is required to sign an Accession agreement with Ecotrel and to accept the General Conditions pertaining to the reimbursement of recycling fees.
- A copy of the mandate agreement(s) signed by both the importer(s) and the foreign supplier must be submitted to Ecotrel.
- The importer is also required to sign an Accession agreement with Ecotrel and to accept the General Conditions pertaining to the reimbursement of recycling fees.

For equipment commercialized by the importer and for which the declaration obligation has not been taken on by a foreign supplier, the importer is obliged to submit the necessary declarations.

From a legal point of view, the trade-in bond remains the responsibility of the importer. The importer also remains (legally) responsible to Luxembourg authorities and to Ecotrel.

NOTE: the foreign supplier, having submitted the declaration, is also required to pay the recycling fee to Ecotrel.

9. Documents

9.1. Legislation

- Grand-ducal regulation of 18/01/2005
- Grand-ducal regulation of 23/12/2005
- Grand-ducal regulation of 24/07/2006

9.2. Internal documents

- List of EEEs
- Accession agreement and its appendices:
 - o List of EEEs
 - o Identification form
 - o Declaration form
 - o Communication Form for commissioned agents
 - o General Conditions for refund of the recycling fee
 - o List of the different amounts due in recycling fees