

# VAT Newsflash

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## Temporary reduction of VAT rates

Earlier last week, the German government released plans for a 130 billion euro package to overcome the economic crisis triggered by COVID-19 and revive the economy. As part of these measures, a reduction in VAT rates is planned, limited in time from 1 July 2020 to 31 December 2020. The standard VAT rate is to be reduced from 19 percent to 16 percent and the reduced VAT rate from 7 percent to 5 percent. The corresponding implementation in a law can be expected in the short term.

This amendment will apply alongside the temporary application of the reduced rate for meals in restaurants and similar venues (from 1 July 2020 to 30 June 2021), which is already in the legislative process.

For companies, the change now means changing settings in Enterprise Resource Planning (ERP) systems at very short notice, implementing new tax codes and adapting invoice layouts to the new tax rates. It is not yet known whether there will be any simplification rules by the tax authorities to facilitate the transition. Below you will find some selected principles to be observed during the upcoming changeover.

## Deferral of tax rates

The new tax rates of 16% and 5% are generally applicable to all services rendered after 30 June 2020, while the tax rates of 19% and 7% still apply to all services rendered up to 30 June 2020 (and again from 1 January 2021).

The decisive factor is the time of performance. This is generally the point in time at which the respective sales are to be declared in the VAT return. This means that all sales that are correctly declared in the VAT return in June or the 2nd quarter of 2020 are subject to the tax rates of 7% and 19%.

However, the special regulations for down payments and advance payments must be taken into account, as it may be necessary to reduce down payments that were correctly accounted for and taxed at 19% and 7% respectively to a charge of 16% and 5% in the final invoice. The same applies in a mirror image at the intersection of 2020 and 2021. In the case of newly issued invoices for down payments or advance payments, the tax statement depends on the expected date of performance.

If, after 30 June 2020, there is a reduction or increase in the taxable base for a taxable transaction carried out before 1 July 2020 (e.g. as a result of a cash discount, rebate, other price reduction or additional billing), the VAT and input tax amount must still be corrected according to the tax rates of 7 % and 19 %.

Special features apply in particular to the granting of vouchers, deposit contributions and annual bonuses. Transfer price adjustments relating to the calendar year 2020 will in many cases have to be settled with both (in some cases even with all four) tax rates.

## Risks

A risk arises for both the supplier and the recipient, in particular from an incorrect tax statement in the invoice. Correct invoices are necessary prerequisites for the deduction of input tax. At the same time, the issuer of the invoice owes any excessively invoiced VAT, without this entitling the customer to deduct input tax.

It is therefore essential to ensure that invoicing is changed over in time so that the tax rates then applicable for transactions between 1 July 2020 and 31 December 2020 are included and shown in the invoices. The changeover must then be repeated on 1 January 2021. Please note: it is the date of performance for VAT purposes that is decisive, not the invoice date.

In the case of ongoing supplies, such as rental, leasing or maintenance contracts, so-called partial services are regularly agreed. In such cases, the remuneration received is subject to the "old" tax rate of 19% up to and including June 2020, to the "new" tax rate of 16% in the period from July 2020 to December 2020, and then again to the 19% tax rate from January 2021. Special care is required if in such cases the contract serves as an invoice or a so-called permanent invoice has been issued, as these will probably show an incorrect tax rate for the second half of 2020.

## Special challenge: ERP systems

The tax rate changes require adjustments to the ERP systems. The following applies to SAP, for example: First, two new tax keys must be defined (or, if still available, the historical tax key 16% must be reactivated and fully integrated into the current tax determination). The previous tax codes must not be blocked due to subsequent remuneration or discounts and down payments received for services that are performed in 2021. In this context, you should also check whether all the necessary conditions for the reduced tax rate of 16% are available or whether individual conditions have only been created in the system for the tax rate of 19%.

Corresponding adjustments not only affect the ERP system, but also all upstream systems such as cash register systems, pricing software or automatic invoice verification.

If the preliminary VAT return is created automatically, the new tax codes must be mapped accordingly to the correct field in the form.

If input tax amounts are determined automatically, the corresponding calculations must be adapted to the new tax rates. This applies in particular to passenger tickets and small amount invoices.

## Miscellaneous

In particular in consumer-facing businesses and in cases where the recipient of the service is not entitled to (full) input tax deduction, it should be examined whether contracts with suppliers or customers are structured as gross or net price agreements and in what form agreements on VAT have been made. A change in tax rates can lead to a need for action here. In addition, the provision of Article 29 German VAT code could lead to a situation in which contracts already concluded must be compensated for the reduced VAT burden.

It remains to be seen whether the Federal Government will legislate on doubtful issues in the legislative process or whether this will be done by decree by the tax authorities. It is also unclear whether the forms for the VAT returns will reflect the temporary tax rate reduction or whether the sales in the second half of 2020 will have to be entered in the field "Sales at other tax rates".

Of course we will keep you informed about further developments.

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