



VAT's new?

**Current developments
in Germany and the EU
in the field of VAT**

Highlight

Services within the same group of companies

Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, must be interpreted as meaning that the remuneration in respect of intra-group services, provided by a parent company to its subsidiary and contractually detailed, which is calculated in accordance with a method recommended by the Transfer Pricing Guidelines adopted by the Organisation for Economic Co-operation and Development (OECD) and corresponds to the part of the operating profit margin greater than 2.74% achieved by that subsidiary, constitutes the consideration for a supply of services for consideration falling within the scope of value added tax.

Articles 168 and 178 of Directive 2006/112, as amended by Directive 2010/45, must be interpreted as not precluding the tax authority from requiring a taxable person who seeks the deduction of input VAT paid to submit documents other than the invoice in order to prove the existence of the services referred to in that invoice and their use for the purposes of the taxed transactions of that taxable person, provided that the submission of that evidence is necessary and proportionate for that purpose.

CJEU, judgment of 4 September 2025 – C 726/23, Arcomet Towercranes

Links for further information

[Deloitte Tax-News: Steuern – Indirekte Steuern/Zoll; Deloitte | tax@hand](#)

[Tax on Air – Der Podcast zum Steuerrecht | Deloitte Deutschland](#)

[VAT Insights webcast on 31.10.2025: VAT Insights | Aktuelles aus der Umsatzsteuer | Deloitte Deutschland | Tax & Legal | Webcast](#)

News

Draft legislation on modernizing and digitizing the fight against illegal employment

On 6 August 2025, the German Federal Cabinet approved the government draft legislation on modernizing and digitizing the fight against illegal employment. The draft provides for the insertion of a clarifying provision on the input tax allocation for mixed-used properties. Generally, input tax allocation is permitted according to a total turnover key if no more precise economic allocation is possible. The draft legislation stipulates that immovable property must be allocated according to the ratio of usable space, unless another method leads to a more precise economic allocation. Consequently, the area key would be the primary allocation method. A property-related turnover key would generally be secondary. Thus, the choice between an area- or property-related turnover key according to sec. 15.17(7) of the German VAT Application Decree would be obsolete.

Government of the Federal Republic of Germany, draft legislation of 15 August 2025 – BR-Drs. 361/25

Draft legislation on the Tax Amendments Act 2025

On 10 September 2025, the German Federal Cabinet approved the government draft legislation on Tax Amendments Act 2025. The draft covers the implementation of the governing coalition's latest political agreements on tax law. In the field of VAT, it provides for the permanent application of the reduced VAT rate on restaurant services and catering, with the exception of beverages. In addition, the draft includes a procedural simplification rule on data retrieval from 1 January 2026 (sec. 18g sentence 5 of the German VAT Act). The drafted new sec. 21b of the German VAT Act provides for the adjustment of VAT provisions to the increasing digitization of the harmonized customs rules.

German Federal Ministry of Finance, referee draft of 4 September 2025,

Link for further information

[Deloitte Tax-News: Steuern – Indirekte Steuern/Zoll](#)

Invoice within the meaning of sec. 14c(2) GVATA

The Federal German Fiscal Court confirmed its principles on the content of invoices within the meaning of sec. 14c(2) GVATA, in particular regarding the issuer, the (presumed) recipient, the description of the supply, the remuneration, and the separately stated VAT. Accordingly, a document is to be considered an invoice if it gives the impression of being a statement of account for taxable supplies and creates the risk of an unjustified input tax deduction. During a tax audit, the tax authorities must consider not only the document in question, but also any additional information provided and references to other documents.

German Federal Fiscal Court, decision of 19 March 2025 – XI R 4/22

Cross-border care services

The German Federal Fiscal Court accepted the appeal against the Cologne Fiscal Court judgment of 25 September 2024 – 9 K 728/18 to clarify the question of whether, for recognition as an institution of social nature in cases where the place of supply and the place from which the taxable person operates his or her business are located in different Member States, the law of the Member State in which the services are performed or the law of the Member State from which the taxable person operates his or her business applies.

German Federal Fiscal Court, decision of 11 August 2025 – V B 63/24

Revenues from operating a martial arts school

The German Federal Fiscal Court allowed an appeal against the Saarland Fiscal Court judgement of 24 October 2024 – 2 K 1180/20 to clarify the question of which requirements must be met for services that directly serve educational purposes and are suitable for acquiring or maintaining professional knowledge.

German Federal Fiscal Court, decision of 12 August 2025 – V B 60/24

VAT-exempt services by a prevention and personality trainer

The services of a prevention and personality trainer can be exempt from VAT under specific conditions. VAT-exempt education comprises a planned activity aimed at the physical, mental, and moral development of young people. The activities of a trainer can meet these requirements if they are focused on training young people. An institution can also fall into the scope of the VAT exemption without formal application procedure if its overall objective is aimed at the education of young people.

German Federal Fiscal Court, judgment of 30 April 2025 – XI R 5/24

Protection of legitimate expectations in the absence of confirmation of arrival

The appeal is admissible for clarification of the legal question of whether and under what conditions the granting of protection of legitimate expectations pursuant to Section 6a (4) sentence 1 of the German VAT Act is to be refused if the customer does not provide the supplier with a confirmation of arrival in the case of collection.

German Federal Fiscal Court, decision of 25 August 2025, V B 34/25

VAT exemption for care and nursing services

A service is not automatically included in the calculation of the social threshold under Section 4 no. 16 sentence 1 letter l) of the German VAT Act in the version applicable in 2020 (now: Section 4 no. 16 sentence 1 letter n) if the consideration is paid from the personal budget (Section 29 of Book Nine of the Social Code).

However, a service is to be included in the calculation of the social threshold if a budget recipient has concluded an individual target agreement with a cost bearer specified in the provision as the budget provider and an overall plan of the budget provider is available in which the service provider is named (in accordance with the ruling of the German Federal Fiscal Court of December 19, 2024 - V R 1/22).

German Federal Fiscal Court, judgment of 30 April 2025, XI R 25/24

(E-)mails as commercial and business letters to be submitted

Commercial and business letters within the meaning of Section 147(1) no. 2 and 3 of the German Fiscal Code may also be emails.

(Digital) documents relating to group transfer pricing fall within the scope of Section 147(1) no. 5 of the German Fiscal Code.

Within the scope of an external audit, the tax authorities are generally entitled to request all emails relating to tax matters from the taxpayer.

However, in the absence of a legal basis, the tax authorities are not permitted to request a so-called complete journal, which would first have to be created and would also contain information on emails that are not related to tax matters.

German Federal Fiscal Court, decision of 30 April 2025, XI R 15/23

VAT exemption for brokerage of banking transactions

In the case of online activities carried out by an entrepreneur on the basis of cooperation agreements with a bank, only remunerated by a commission when contracts are concluded between customers and the bank, for the purpose of concluding online contracts for personal loans or current accounts, are exempt from VAT pursuant to Section 4 no. 8 letter a) or d) of the German VAT Act if the process and structure of the activities undertaken by the entrepreneur are designed to repeatedly contact the respective interested party through various channels and ultimately refer them to the bank as a new customer.

The fact that the entrepreneur does not openly act as an intermediary vis-à-vis the interested party, or that the customer does not know that they are being referred due to the design of the website, and that the entrepreneur is not involved in negotiating the terms and conditions between the bank and the referred customer, is irrelevant to the existence of VAT exempt intermediary activities.

Munich Fiscal Court, judgment of 2 July 2025, 3 K 1932/21

NFT trading

In the case of trading involving non-fungible tokens (NFT) for digital image data as part of collections, where the database entry on a centralized blockchain is dealt, which allows a purchaser to claim ownership of the digital asset, a supply of service exists. The pseudonymization of the crypto wallet addresses of the recipients does not preclude this qualification. In the case of such transactions involving NFT collectibles via the globally used NFT trading platform "OpenSea", the requirements for service commission were not met in the year of dispute 2021. The services in connection with NFT transactions to private customers are services provided electronically.

Lower-Saxony Fiscal Court, judgment of 10 July 2025 – 5 K 26/24, legally binding

Link for further information

[Deloitte Tax-News: FG Niedersachsen: Der umsatzsteuerliche Umgang mit NFT](#)

Online events

With the letter of 8 August 2025, the German Federal Ministry of Finance has changed its opinion regarding the VAT treatment of services that are provided live online and are subsequently available as recordings. Previously, the supply of service had been considered taxable in its entirety and subject to the standard VAT rate if there was the option of recording in addition to the live broadcast. However, if the recording was subject to an additional payment, there were two independent main services. The administrative opinion has now been changed. Accordingly, it must be assessed whether there is a uniform supply or several independent supplies. The remuneration should not be a criterion for this assessment. Instead, the overall nature of the supply from the perspective of the average consumer is decisive. The letter applies to all open cases. For supplies carried out before 1 January 2026, suppliers can still invoke the former principles laid down in the Federal Ministry of Finance letter of 29 April 2024. This applies to input tax deduction accordingly.

German Federal Ministry of Finance, letter of 8 August 2025 – III C 3 - S 7117-j/00008/006/043

VAT return form for individual vehicle taxation

The German Federal Ministry of Finance published the sample form for VAT returns for individual vehicle taxation, including instructions. The form is used for intra-Community acquisitions of new means of transports (sec. 1b of the German VAT Act), in particular by private individuals, non-commercial associations, and taxable persons who purchase the vehicle for their non-business purposes. The return must be submitted for each vehicle purchased.

German Federal Ministry of Finance, letter of 25 August 2025 – III C 3 - S 7352-a/00004/003/061

Providing mandatory billing information in other official languages of the EU

In a letter dated September 17, 2025, the Federal Ministry of Finance published new guidelines for issuing invoices. In future, certain mandatory information pursuant to Sections 14 and 14a of the German VAT Act may also be provided in other official languages of the EU. The prerequisite for this is that the terms used correspond to the wording of the respective language version in accordance with Article 226 of the VAT Directive. At the same time, the German VAT Application Decree was updated. Annex 8 has been newly introduced, which assigns German terms their respective foreign-language equivalents. These may now be used explicitly in invoices and are referenced accordingly in sections 14.5 and 14a.1 of the German VAT Application Decree. The letter applies to all open cases and repeals the previous letter of the Federal Ministry of Finance dated October 25, 2013.

German Federal Ministry of Finance, letter of 17 September 2025, III C 2 - S 7290/00003/003/013

Sudoku games published periodically

Tariff heading 4902 of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version resulting from Commission Implementing Regulation (EU) 2018/1602 of 11 October 2018, must be interpreted as meaning that goods described as books bound in paper which contain mainly printed sudoku games, in which certain numbers in the series 1 to 9 are already entered in a grid, the other numbers having to be entered in the grid in a precise order, and which are published every eight weeks, come under that heading.

CJEU, judgment of 1 August 2025 – C 375/24, Keesing Deutschland

Supply of a work of art by the creator

Article 316(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the supply by taxable dealers of works of art supplied to them by the creator or his or her successors in title acting through a legal person falls within the scope of that provision, provided that, first, the supply by the legal person is attributable to the creator or his or her successors in title, which is the case where the creator or successors in title have established that legal person for the purpose of marketing the works of art created by the creator and, second, the supply of those works of art to the taxable dealer constitutes the first introduction of those works of art onto the EU market

CJEU, judgment of 1 August 2025 – C 433/24, Galerie Karsten Greve

Exportation

Article 146(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the exemption provided for in that provision covers a supply of goods initially declared by the supplier as an intra-Community supply which, without the supplier's knowledge, was made outside the territory of the European Union by the person acquiring the goods, where the export at issue has been established by the tax authorities on the basis of the customs documents.

CJEU, judgment of 1 August 2025 – C-602/24, W.

Service for the administration of VAT refunds

Article 1(2), Article 2(1)(c) and Article 78 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that an activity of administering refunds of value added tax (VAT) which customers who are not resident in the European Union paid when purchasing goods which they subsequently transport outside the European Union constitutes a supply of services that is distinct from, and independent of, the corresponding exempt supply of goods and must, as such, be subject to VAT. Such a supply of services does not come under the exemption provided for in Article 146(1)(e) of that directive.

Article 135(1)(d) of Directive 2006/112 must be interpreted as meaning that an activity of administering refunds of value added tax (VAT) which customers who are not resident in the European Union paid when purchasing goods which they subsequently transport outside the European Union does not come under the exempt transactions referred to in that provision.

The principle of the protection of legitimate expectations must be interpreted as not precluding the tax authorities from subsequently making certain supplies of services subject to value added tax (VAT) where those authorities have checked and accepted the taxable person's VAT returns for several years without challenging the classification of those supplies of services as VAT-exempt supplies and have not informed that taxable person of the change in the national legislation which, in its previous version, expressly stated that those supplies of services were among the activities exempt from VAT. In that context, it is irrelevant that, following a request for an opinion submitted under the applicable national legislation, the taxable person has received an 'ex-post' and non-binding response from the tax authorities, to the effect that those supplies of services were to be regarded as expenses incidental to an exempt supply of goods sharing the treatment of the main transaction as regards the VAT exemption scheme.

Articles 73 and 78 of Directive 2006/112 must be interpreted as precluding the practice of the tax authorities of a Member State whereby the amounts invoiced as consideration for a value added tax (VAT) refund administration service, that is, the administration fees, are deemed to be net amounts, not including VAT, where the supplier has considered their supply of services to be exempt and it is manifestly impossible for the supplier subsequently to recover from the purchasers of VAT-exempt goods the amount of VAT claimed by the tax authorities.

CJEU, judgment of 1 August 2025 – C-427/23, Határ Diszkont

Joint and several liability of a third party

Article 205 of Directive 2006/112/EC on the common system of value added tax (the VAT Directive) must be interpreted as permitting no transfer of the tax debt to a third party but only ancillary liability for the tax debts of a person liable for payment of VAT where that tax debt has not been extinguished yet and that person still exists. Imposition of secondary liability following the conclusion of insolvency proceedings and the deletion of the taxable person from the commercial register is thus not covered by Article 205 of the VAT Directive.

Article 205 of the VAT Directive, read in conjunction with Article 273 thereof, permits also the imposition of liability on the recipient of a supply where that recipient knew or should have known that the transaction would lead to that recipient being involved in the commission of fraud on the part of his or her or its contractual partner, or where the recipient's conduct itself amounts to abuse. However, mere failure to pay the declared tax does not constitute VAT fraud. Provided that the recipient of the supply cannot be accused of abusive conduct, the mere fact that that recipient knew or should have known that his or her or its contractual party would not pay the declared tax is not sufficient to warrant that recipient being held liable.

CJEU, opinion of Advocate General Kokott delivered on 4 September 2025 – C-121/24, Vaniz

Loyalty program with points acquired on the basis of the price of purchases

The Advocate General Kokott proposes to answer the questions referred by the Supreme Administrative Court, Sweden as follows:

The issue of points under a customer loyalty programme which is designed in such a way that a customer who purchases goods obtains points according to the size of the purchases and is then entitled, when making a future purchase, to use the points to obtain further goods from the seller's range does not constitute a voucher within the meaning of Article 30a of the VAT Directive.

There is no (self-standing) obligation to accept those points as consideration for a supply of goods. Therefore, such a point system constitutes only a discount on a future purchase.

CJEU, opinion of Advocate General Kokott of 11 September 2025, C 436/24, Lyko Operations AB

Transactions concerning legal tender

The Advocate General Kokott proposes to answer the questions referred by the Tax Disputes Commission under the Government of the Republic of Lithuania as follows:

Article 135 (1) letter e) of the VAT Directive must be interpreted as meaning that it exempts only transactions concerning legal tender or non-legal tender that is accepted as a contractual direct means of payment between operators and that thus has no other purpose than to be a means of payment in legal transactions.

In-game Gold (as an electronic service) does not merely serve to procure a later consumable benefit in the form of an as yet unspecified service, which the issuer of a voucher would be obliged to supply, but is itself already a consumable benefit. Therefore, it is not a voucher within the meaning of Article 30a of the VAT Directive.

Article 311 (1) no. 1 of the VAT Directive must be interpreted, in the light of technological developments, in a teleologically broader manner as covering also transferable non-tangible objects, provided that they are traded in legal transactions in the same way as tangible objects. The decisive factor is that such services are traded on a secondary market in a comparable way to regular second-hand goods and typically contain residual VAT. It is for the referring commission to determine whether that is the case for in-game Gold here.

CJEU, opinion of Advocate General Kokott of 11 September 2025, C 472/24, 'Žaidimų valiuta' MB

Forms for the communication of VAT information updated by EU-UK Trade Specialised Committee

The Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties adopted the decision No 1/2025 updating the standard forms for the communication of VAT information and statistical data between the EU Member States and the United Kingdom. The section for the spontaneous exchange of information and administrative requests was extended. In addition, the procedure for providing feedback was standardised.

Link for further information

europa.eu

Agenda of the next meeting of the Working Party on Tax Questions

The Working Party on Tax Questions (Indirect Taxation - VAT) published the provisional agenda for the meeting on 11 September 2025:

- Work program and priorities in the area of VAT under the Danish Presidency,
- Amendments to the agreement between EU and Norway on administrative cooperation, combating fraud and recovery of claims in the field of VAT,
- Union Customs Code Reform,

- Proposal for a Council Directive amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT.

Link for further information

europa.eu

Customs Reform

The legislative process for reforming the EU is currently under way. The proposed reform will fundamentally change customs for those engaging in customs activities. The reform has four pillars:

creating a new EU Customs Data Base, in which those engaged in customs activities will enter real-time information,

establishing a new EU Customs Authority to maintain and operate the EU Customs Data Base, develop a common risk-assessment framework and share data with Member State customs authorities,

creating the "Trust & Check Trader"-status, which carries greater obligations than AEO-obligations but also provides greater simplifications and facilitations, and

a complete reform of cross-border e-commerce, which will make e-commerce platforms "deemed importers" and will abolish the €150 duty-free rule.

The reform should allow for better, more precise risk management, a more uniform customs experience across the EU, greater efficiency and cost savings for customs participants and effectively addressing the challenges associated with abuse of the current e-commerce rules for the benefit of consumers and legitimate traders.

Council of the EU, draft Directive dated on 8. May, <https://data.consilium.europa.eu/doc/document/ST-8570-2025-INIT/de/pdf>; European commission, EU Customs Reform

Link for further information

[Deloitte Tax-News: Steuern – Indirekte Steuern/Zoll](#)

European Commission launches public consultation on VAT rules for Travel and Tourism Sectors

The European Commission has launched a 12-week public consultation to gather input from stakeholders on modernising VAT rules for the travel and tourism sectors.

This initiative aims to address outdated regulations that create distortions in the EU single market and hinder sector competitiveness. Stakeholders, including businesses, Member State authorities, and citizens, are invited to share their views on proposed reforms to the special VAT scheme for travel agents and the taxation of passenger transport services.

The consultation seeks feedback on two core issues:

1. Special VAT Scheme for Travel Agents: Current rules tax travel agents based on their margin and where they are established, but inconsistencies in application across Member States and advantages for non-EU operators have given rise to unfair competition. Options under review include levelling the playing field with non-EU travel agents and clarifying the scope of the scheme.
2. VAT Rules for Passenger Transport: Existing rules, which determine taxation by distance travelled within the EU, impose administrative burdens on small operators and contribute to disparities between transport modes (e.g., zero-rating for international air transport vs. higher rates for land transport). Options under review include the simplification of the rules regarding the place of taxation.

Link for further information

https://taxation-customs.ec.europa.eu/news/european-commission-launches-public-consultation-vat-rules-travel-and-tourism-sectors-2025-07-24_en

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