



VAT's new?

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

Highlights

Draft of the Annual Tax Act 2026

The German Federal Ministry of Finance published the draft of the Annual Tax Act 2026. One of the most significant changes concerns the planned VAT group reform with effect from 1 January 2029. Accordingly, the legal consequences of VAT grouping will no longer arise by law, but solely on the basis of a declaration by the controlling entity to the competent tax authority with effect for the future. The substantial requirements, including financial, economic and organisational integration of the controlled entity into the controlling entity's business, will be retained. Furthermore, the draft contains provisions on corrections, reversals, interest and liability for incorrectly assumed VAT groups. The submission of the relevant declaration will be possible from July 2028. Associations may comment on the draft until 12 June 2026. The Federal Cabinet is expected to consider the draft on 1 July 2026.

German Federal Ministry of Finance, [draft of the Annual Tax Act 2026](#)

Link to further information

[Deloitte Tax News](#)

Ninth Act Amending the Tax Consultancy Act

The Ninth Act Amending the Tax Consultancy Act, passed by the Bundestag (German Parliament) on 24 April 2026, which the Bundesrat (Federal Council) had not approved on 8 May 2026 due to the relief bonus, is to be re-enacted by the Bundestag under an expedited procedure. The coalition parliamentary groups introduced a new draft, which incorporates the amendments from the bill already passed by the Bundestag, with the exception of the relief bonus and the associated amendments. Thus, the draft also includes the amendment to the provision on fiscal representation, which is necessary due to the amendments to sec. 4 et seq. of the German Tax Consultancy Act, without this entailing any substantive change. The Bundestag is expected to pass the act on 12 June 2026. Approval by the Bundesrat is scheduled for the same day.

CDU/CSU and SPD parliamentary groups, draft of 19 May 2026 – [BT-Drs. 21/6002](#)

News

German Federal Fiscal Court – Selection

Input tax deduction in the event of a name change

The Federal Fiscal Court has granted leave to appeal in order to determine whether the recipient of a supply can be denied the right to deduct input tax based on an invoice solely because the supplier, who is in the process of changing its name, has already listed its new name rather than its old name, which was valid at the time of the supply was made and the invoice was issued.

German Federal Fiscal Court, decision of 29 April 2026 – [V B 118/25](#)

Input tax deduction in case of advance payments

An advance payment invoice can entitle the recipient to deduct input tax, in the absence of an explicit reference, if it can otherwise be inferred that it is issued for a supply yet to be made. If this supply is not carried out, the right to deduct input tax may exist if, at the time of payment, the recipient assumes that he is paying for a supply to be made.

German Federal Fiscal Court, judgment of 4 December 2025 – [V R 38/23](#)

Protection of legitimate expectations in case of intra-Community supplies

The protection of legitimate expectations does not require that the supplier possesses any confirmation of arrival. Instead, the supplier is obliged to act in good faith at the time of supply and take all reasonable precautions. In a case recently decided by the German Federal Fiscal Court, the claimant sold a car, which he had previously offered for sale via an online platform. The car was collected by the buyer in Germany and transported to Romania. Even though the confirmation of arrival was never returned to the claimant and the vehicle was subsequently registered domestically, the claimant had checked the VAT identification number, the extract from the commercial register, and the power of attorney. He also received assurance from the purchaser that the car would be transported to the rest of the Community territory. Thus, the claimant treated the supply of the car as a VAT-exempt intra-Community supply. However, the tax authorities refused the VAT exemption, *inter alia*, due to the missing confirmation of arrival. The Federal Fiscal Court overruled the lower court's judgment. For the protection of legitimate expectations, *prima facie* evidence supported by documentation is sufficient, provided that the inaccuracy of the information is not obvious.

German Federal Fiscal Court, judgment of 18 December 2025 – V R 3/25

No leave to appeal regarding economic integration in the context of VAT grouping

The German Federal Fiscal Court dismissed an appeal against the refusal of leave to appeal, as it did not meet the requirement regarding the fundamental significance of the case. Accordingly, it is not sufficient to ask under what conditions the mere letting of business premises to the controlled entity justifies the assumption of economic integration. It also does not suffice to point out, with regard to the contested judgment of the lower court, that the latter had ruled that economic integration existed because the private limited company adhered to the lease agreement despite the alleged lack of use, and to conclude that adherence to a long-term lease was not decisive for economic integration.

German Federal Fiscal Court, decision of 29 April 2026 – V B 90/25

Double adjustment in case of insolvency proceedings

If insolvency proceedings are opened in respect of the assets of a taxable person whose supplies are taxed based on the agreed consideration, the classification is based on double adjustment principles. Accordingly, an initial adjustment must be made. This adjustment must be carried out in the pre-insolvency part of the business, involving that the VAT refund claim constitutes an insolvency claim. If the consideration is received after the opening of insolvency proceedings, this leads to a second adjustment. This second adjustment does not depend on the first adjustment having been carried out correctly. In a recent case, the claimant had inadvertently failed to make the first adjustment. However, this does not prevent the tax authorities from making the second adjustment at the expense of the insolvency estate.

German Federal Fiscal Court, judgment of 18 December 2025 – V R 34/23

Full interest under sec. 233a of the German Fiscal Code in line with EU law

The full accrual of interest on VAT under sec. 233a of the German Fiscal Code does not violate EU law. The rule neither serves to implement EU law nor does it otherwise fall within the scope of EU law. In its landmark decision, the German Federal Fiscal Court emphasised the procedural autonomy of the Member States. Within this framework, sec. 233a of the German Fiscal Code satisfies both the principle of equivalence and the principle of effectiveness. Even assuming relevance under EU law, the rule withstands the proportionality test.

German Federal Fiscal Court, judgment of 11 December 2025 – V R 7/24

No waiver of interest in the case of unlawfully claimed input tax deduction (I)

Interest on payments under sec. 233a of the German Fiscal Code is not to be waived on grounds of equity if a taxable person initially unlawfully invoked the right to deduct input tax in Germany for foreign input tax amounts which then ceases to apply due to a revised tax assessment. In the case recently decided by the German Federal Fiscal Court, the plaintiff had deducted input tax amounts from other EU Member States as domestic input tax. Following an external audit, this was corrected, resulting in the assessment of interest on arrears. The tax authorities refused to waive interest on grounds of equity. The decisive factor is that the interest is typically intended to offset a liquidity advantage that arose, at least temporarily, from the unjustified input tax deduction in Germany. Furthermore, the fact that an input tax deduction is no longer possible in the other Member State does not trigger unfairness. Any disadvantages must be asserted in the respective Member States or in relation to the contracting parties.

German Federal Fiscal Court, judgment of 11 December 2025 – [V R 8/24](#)

No waiver of interest in the case of unlawfully claimed input tax deduction (II)

According to a landmark ruling by the Federal Fiscal Court of 11 December 2025 – V R 7/24, the application of full interest on VAT under sec. 233a of the German Fiscal Code does not violate EU law. In a parallel decision, the German Federal Fiscal Court further held that an equitable waiver of interest on arrears is ruled out if a legal error is based on the incorrect application of a simplification rule provided for by the tax authorities. In the case at issue, the plaintiff had erroneously applied sec.1a.2(14) of the German VAT Application Decree, which had been provided by the German tax authorities at the time for simplification purposes, even though the requirements for this administrative rule were not met. Accordingly, the plaintiff claimed input tax amounts that were shown on invoices from a Luxembourgish entity for domestic supplies made to the plaintiff. In fact, the Luxembourgish entity did not owe German VAT and was therefore not permitted to show VAT on its invoices. Instead, the plaintiff owed VAT under the reverse charge procedure.

German Federal Fiscal Court, judgment of 11 December 2025 – [V R 28/25](#)

No right to a final meeting following the initiation of criminal tax proceedings during a special VAT audit

A final meeting is to be held only if the department entrusted with the tax investigation has been commissioned to carry out an external audit, unless the results of the external audit do not give rise to any change in the tax assessment basis or the taxpayer waived the right to a meeting.

German Federal Fiscal Court, decision of 13 April 2026 – [V B 64/25](#)

German Fiscal Court – Selection

Reduced VAT rate for cold therapy

By submitting medical prescriptions relating to individual cold therapies that also included medical diagnoses, the taxable person demonstrated that the measures were based on a medical indication and intended for the treatment of an illness or other health disorder. The therapeutic purpose must be determined on a case-by-case basis.

Münster Fiscal Court, judgment of 25 February 2026 – [5 K 2901/22 U](#), legally binding

German Federal Ministry of Finance – Selection

Distribution chains for multi-purpose vouchers

In a recent letter, the Federal Ministry of Finance commented on the VAT treatment of services provided by intermediaries in distribution chains for multi-purpose vouchers, in particular regarding the tax base if no express agreement has been reached between the parties regarding the amount of compensation for intermediary services. In such cases, the remuneration is derived from the difference between the voucher issue price and the purchase price paid. These principles also apply if the intermediary issues the voucher in its own name and on its own account. The guidance is especially relevant in scenarios where various intermediaries are involved in the distribution chain. Accordingly, the tax base for the intermediary's service to the taxable person issuing or transferring the multi-purpose voucher is determined by the difference between the voucher value and the purchase price paid by the respective intermediary if no remuneration agreement exists. The German VAT Application Decree was amended accordingly.

German Federal Ministry of Finance, letter of 29 April 2026 – III C 2 - S 7100/00097/002/309

Travel services provided by taxable persons established in a third country

Sec. 25 GVATA does not apply to travel services provided by taxable persons who are established in a third country and do not have a fixed establishment within the Community. For reasons of legitimate expectations, the tax authorities are not applying this provision currently. In a recent letter, the Federal Ministry of Finance extended the non-objection rule, which had already been extended several times, until 31 December 2029.

German Federal Ministry of Finance, letter of 28 April 2026 – III C 2 - S 7419/00016/022/023

Liability of legal entities under public law

In a recent administrative guidance, the German Federal Ministry of Finance clarified the VAT liability for legal entities under public law. Accordingly, a claim for liability under sec. 13c GVATA is possible if the assignment, pledging, or attachment of the claim relates to the commercial or non-commercial activities of a legal entity under public law. The German VAT Application Decree was updated correspondingly.

German Federal Ministry of Finance, letter of 30 April 2026 – III C 2 - S 7279-a/00004/004/023

Overview of VAT conversion rates 2026

The German Federal Ministry of Finance updated its monthly overview of the VAT conversion rates by adding the rates for April 2026.

German Federal Ministry of Finance, letter of 4 May 2026 – III C 3 - S 7329/00014/008/047

Registration as a taxable person

For taxable persons established in Germany that require confirmation of their status to claim a refund of input VAT in a third country, the competent tax office will, upon application, issue a certificate proving their registration for VAT purposes. The certificate is also issued for controlled entities with a controlling entity established in Germany, and for controlled entities and branches in Germany that form part of the business of a taxable person established abroad. In this context, the official template USt 1 TN has been updated recently.

German Federal Ministry of Finance, letter of 23 April 2026 – III C 3 - S 7359/00060/004/035

Updated official templates regarding VAT liability

The German Federal Ministry of Finance updated the official templates regarding the VAT liability of the recipient under specific reverse charge rules, including the certificate for resellers of natural gas and/or electricity (USt 1 TH) and resellers for telecommunications services (USt 1 TQ), the certificate for construction and building cleaning services (USt 1 TG), as well as the certificate of residence in Germany (USt 1 TS). The changes involve editorial adjustments. Generally, the certificates are issued upon application or ex officio, with the period of validity limited to a maximum of three years. The exception is the certificate of residence (USt 1 TS), which is limited to one year.

German Federal Ministry of Finance, letter of 9 April 2026 – III C 3 - S 7279/00059/002/092; letters of 10 April 2026 – III C 3 - S 7279/00059/002/093; III C 3 - S 7279/00059/002/091; III C 3 - S 7279/00084/001/037

Business size categories for the audit cycle from 1 January 2027

The German Federal Ministry of Finance published the criteria for classifying businesses into size categories for the audit cycle from 1 January 2027. The thresholds for the three size categories have been adjusted for all types of business. Retail businesses are classified as large enterprises from a turnover of EUR 14.7 million or a taxable profit of EUR 840,000. Manufacturing enterprises reach the large enterprise class from a turnover of EUR 12.6 million or a taxable profit of EUR 997,500. For the liberal professions, the threshold is a turnover of EUR 12.6 million or a taxable profit of EUR 1.47 million. Special provisions apply to credit institutions, which are classified according to total assets or taxable profit, and for insurance companies, whose classification is based on annual premium income. Specific rules are also provided for loss-making companies, holding companies and tax-privileged entities.

German Federal Ministry of Finance, letter of 27 April 2026 – IV D 2 - S 1450/00014/005/012

Regional Tax Authorities – Selection

Place of supply for cross-border provision of vehicles to employees

The Lower Saxony State Office for Taxes issued a guidance on the VAT treatment of the provision of company vehicles to employees for private use as rental service for consideration (in accordance with Federal Ministry of Finance, letter of 3 March 2026 – III C 3 - S 7117-e/00003/005/058). Thus, the place of supply is the place of residence of the respective employee. As some EU Member States treat this as a benefit in kind and set the place of supply at the employer's registered office, this may lead to double taxation or non-taxation in cross-border cases. According to the Lower Saxony State Office for Taxes, this must be accepted. Furthermore, a reduction in the input tax deduction arising from the purchase of the vehicle by the employer is not an option in cases where the transfer of use is not taxed.

Lower Saxony State Office for Taxes, decree of 26 March 2026 – S 7117-e-St 183-5510/2026

Colleges, universities and university hospitals

The Bavarian State Office for Taxes commented on the VAT rules applicable to colleges, universities and university hospitals, with a focus on the dual nature of state colleges, which may act as state institutions and as entities under public law. Accordingly, the status as a taxable person depends on the capacity in which the college acts. When acting as a state institution, the supplies are attributed to the Free State of Bavaria, whereas when acting as a body governed by public law, they are attributed to the body itself. The decisive factor is whether state budget funds or exclusively the body's own assets are used.

Bavarian State Office for Taxes, decree of 22 April 2026 – S 7107.2.1-163/6 St33

Recipient in cases of road construction by the federal states

In a recently published decree, the Lower Saxony State Office for Taxes has commented on the VAT classification of road construction works. In particular, it addresses the question of who is the recipient if road construction works are carried out by the federal states on behalf of the Federal Government, involving third parties, especially those from abroad. If a federal state acts in the name and on behalf of the Federal Republic, the federal authority is the recipient and bears the reporting obligations. If, on the other hand, the federal state acts in its own name, it is the recipient. For contracts awarded before 1 April 2026, no objection will be raised if the federal state is treated as the recipient.

Lower Saxony State Office for Taxes, decree of 12 March 2026 – S 7279-St 185a-3927/2022

CJEU | General Court – Selection

Interest relating to VAT arrears

“Article 325 TFEU and Article 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in the light of the principle of proportionality must be interpreted as not precluding national legislation which lays down the detailed rules for calculating the rate of default interest relating to value added tax arrears irrespective of the nature and seriousness of the infringement established by the tax authority, and precludes that authority from applying an interest rate lower than that provided for by that legislation or waiving the calculation of a part of the amount of the default interest or exempting a taxpayer from the payment of that interest, with the exception of the cases exhaustively defined by that legislation.”

CJEU, judgment of 30 April 2026 – C-544/24, Nekilnojamojo turto valdymas

Transfer pricing adjustments

“Point 1 of Article 2 of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment, must be interpreted as meaning that an adjustment of a transfer price of motor vehicles which is:

- duly set out in an agreement concluded between the companies belonging to the same group intended to guarantee that the company acquiring such vehicles obtains a previously determined profit margin on the resale of those vehicles;
- evidenced by a credit or debit note sent by the selling company to the acquiring company, and
- calculated on the basis, inter alia, of the costs incurred by the acquiring company in connection with the repair by third parties of those vehicles,

does not constitute consideration for a ‘supply of services effected for consideration’, within the meaning of that provision, unless there is, between those companies, a legal relationship characterised by reciprocal commitments relating to the supply by the acquiring company of services to the selling company and the payment by the selling company of remuneration in respect of those services in the form of such an adjustment, establishing a direct link between the supply of those services and that adjustment.”

CJEU, judgment of 13 May 2026 – C-603/24, Stellantis Portugal

Acquisition of a claim

“Article 90 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding a subcontractor, having acquired by assignment the claim which a contractor had against a developer under a works contract, from adjusting the taxable amount for value added tax in the event of non-payment of that claim by that developer.”

General Court, judgment of 22 April 2026 – T-233/25, Mokoryte

VAT grouping

"Article 11 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding legislation of a Member State under which eligibility to form a VAT group comprising persons carrying out activities exempt from VAT or not engaged in economic activity, within the meaning of Article 9(1) of Directive 2006/112, is subject to one person in the VAT group owning, directly or indirectly, 100% of the other person or persons in the VAT group, in so far as that legislation is intended to prevent tax advantages arising from the application of the VAT group scheme other than those connected with simplifying administration, and complies with the principles of proportionality and fiscal neutrality."

General Court, opinion of Advocate General Brkan delivered on 22 April 2026 – T-268/25, Sampension Livsforsikring

Other news – Selection

ViDA implementation work programme for 2026

The European Commission published its work programme for the implementation of the VAT in the Digital Age package (ViDA). It includes the legal, technical and administrative measures to support the phased implementation of the ViDA package between 2025 and 2035.

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Cooperation between EPPO and OLAF

The Council of the EU agreed to strengthen cooperation between the European Public Prosecutor's Office (EPPO), the European anti-fraud office (OLAF) and EU Member States in the fight against cross-border VAT fraud. In the future, EPPO and OLAF will be granted direct access to key VAT information, including VAT identification numbers, intra-Community supplies, and certain customs-specific and payment-related information. In particular, the role of Eurofisc will be strengthened. Eurofisc will transmit analytical reports on suspected cross-border VAT fraud immediately to the EPPO and, in cases of customs-related VAT fraud, to the OLAF. Upon request, relevant information will be provided in the context of investigations. Furthermore, the proposed rules include data protection and access controls. The European Parliament's opinion is expected in July 2026.

Council of the EU, press release of 5 May 2026, europa.eu

Public consultation on the VAT rules relevant to the travel and tourism sector

The European Commission published a summary report on the public consultation regarding the VAT rules that apply to the travel and tourism sector, with a focus on the special scheme for travel agents (Tour Operators' Margin Scheme, TOMS) and passenger transport services. Accordingly, most respondents identified the need to modernise TOMS rules. Criticisms included impairments to VAT neutrality, uncertainties regarding the scope of the scheme and competitive distortions in favor of non-EU providers. In addition, an opt-out mechanism and a shift in the VAT chargeability to the completion of the travel service were advocated. Regarding passenger transport services, the views focused on determining the place of supply based on the distance and different VAT treatment of transport modes. The publication of the legislative proposal is expected by the end of 2026.

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Fiscal costs of reduced VAT rates in the EU

The European Commission published the European Economy Discussion Paper 244 on the fiscal costs and redistributive effects of reduced VAT rates in the EU. Accordingly, reduced VAT rates for essential goods, including food and drink, housing, water, electricity and healthcare products, are the most cost-effective in triggering redistribution while others that are inessential, in particular restaurants services, lead to reduced redistributive effects.

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Closed infringement proceedings against Belgium and Bulgaria

The European Commission closed infringement proceedings against Belgium and Bulgaria for failing to completely transpose the EU VAT Rates Directive into national law.

[INFR\(2025\)0004](#), [INFR\(2025\)0010](#)

42nd meeting of the VAT Expert Group

According to the minutes of the 42nd meeting of the VAT Expert Group held on 13 March 2026, the discussions focused on the drafted explanatory notes on the new VAT rules for the platform economy, single VAT registration and digital reporting requirements.

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51st meeting of the Group on the Future of VAT

The European Commission published the minutes from the 51st meeting of the Group on the Future of VAT held on 3 March 2026. During the meeting, the participants shared their views on the drafted explanatory notes on the platform economy, single VAT registration, and digital reporting requirements.

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Upcoming webcast

[VAT Insights](#) | 25 June 2026

Upcoming podcast

[Tax on Air](#) June 2026 | VAT & AI

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