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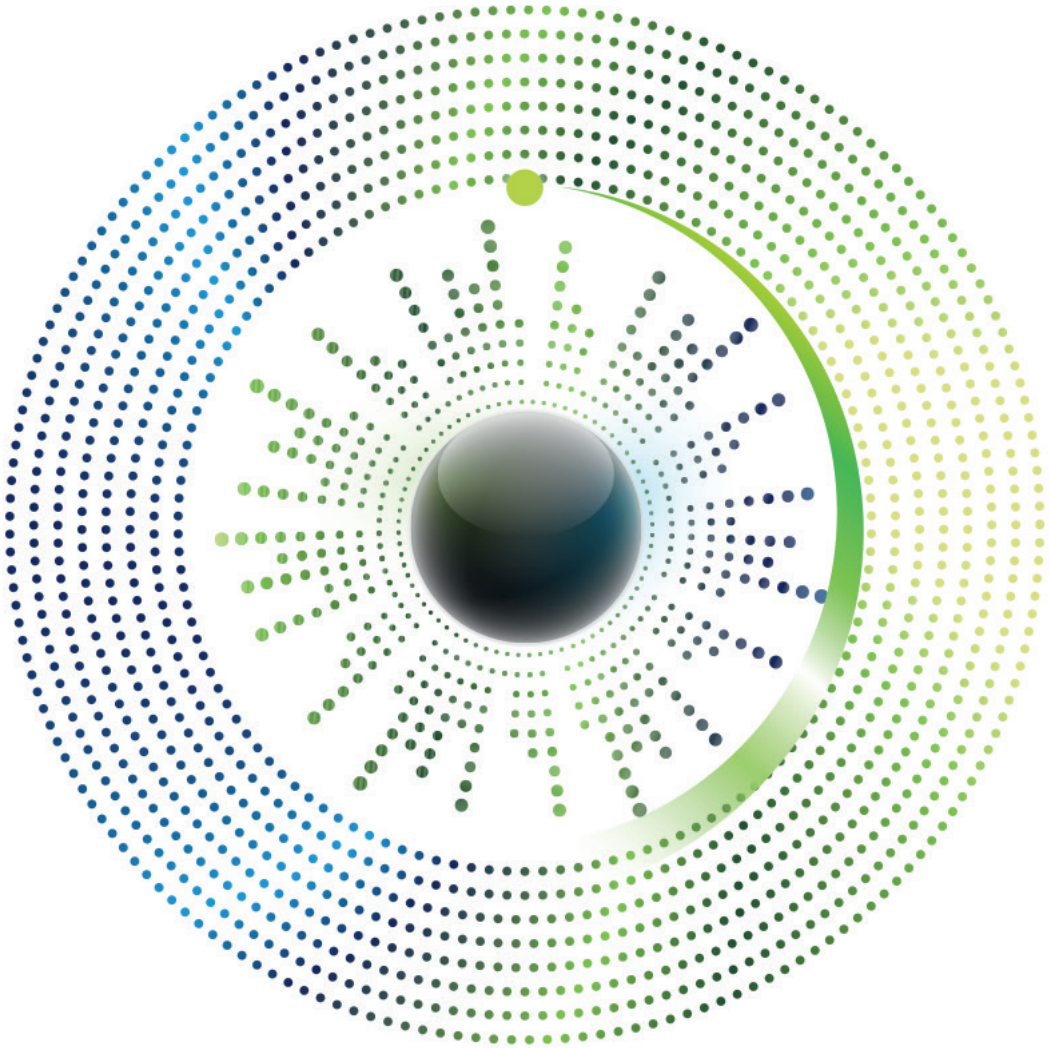

# VAT's new?

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

# Highlights

### Annual Tax Act 2026 (draft)

On 12 August 2026, the German Federal Cabinet approved the draft of the Annual Tax Act 2026. The key changes to VAT law contained in the referee draft were incorporated into the government's draft. This relates in particular to the reform of the VAT group through a new sec. 2c GVATA draft, as well as the merging of the EUR 10,000 threshold from sec. 3a(5) GVATA and sec. 3c GVATA into a new sec. 3f GVATA draft. However, the new provisions regarding VAT grouping include a number of changes compared with the referee draft. For instance, the Government's draft provides for the new provisions regarding VAT grouping to come into force on 1 January 2030 rather than 1 January 2029. Furthermore, sec. 2c(1) GVATA draft has been amended. Accordingly, the principle that the effects of VAT grouping arise only upon declaration by the controlling entity also applies to the inclusion of further legal entities or partnerships in an existing VAT group. The Government's draft also contains a provision on the revocation of the declaration and provides for a duty to notify the German Tax Authorities immediately should the conditions cease to apply.

*German Federal Government, Annual Tax Act 2026 (draft)*

**Link to further information**
Deloitte Tax News

### Act on the introduction of a mandatory cash register requirement (draft)

On 7 August 2026, the German Federal Ministry of Finance published a draft bill to introduce a mandatory cash register requirement to combat tax evasion and to further digitise tax law. It includes a mandatory cash register requirement for businesses with a total turnover of EUR 100,000 or more. Furthermore, a discussion draft regarding exemptions has been published. The obligation to issue paper receipts will be abolished with effect from 1 January 2028. Besides, an obligation to make receipts available will be introduced. Moreover, additional sanctions and measures to strengthen investigative powers will be introduced.

*German Federal Ministry of Finance, Act on the introduction of a mandatory cash register requirement, combating tax evasion and the further digitalisation of tax law (draft)*

# News

## German Federal Fiscal Court – Selection

### CJEU referral regarding the concept of fixed establishment

The German Federal Fiscal Court has referred a question to the CJEU asking as to whether a drying plant located in Germany constitutes a fixed establishment if the taxable person, who is established in another EU Member State, remotely monitors and maintains the plant from his place of business and, in addition, has commissioned a subcontractor to operate the plant, whose employees work on site at the plant.

*German Federal Fiscal Court, CJEU referral of 7 May 2026 – V R 12/24*

**Link to further information**
Deloitte Tax News

### Input tax deduction on consultancy fees for claiming damages

In a case recently decided by the German Federal Fiscal Court, a private limited company had entered into an agreement which was terminated by the client. Subsequently, the company brought a successful claim for damages and invoked the right to deduct input tax for the associated consultancy services. The German Federal Fiscal Court held that the consultancy fees were directly linked to the enforcement of a claim arising from the company's intended economic activity. Input VAT was therefore deductible even though the planned taxable activity was ultimately not carried out.

*German Federal Fiscal Court, judgment of 7 May 2026 – V R 15/24*

### Reciprocal charging of a canteen cost allowance does not constitute a supply

If the hirer of temporary agency workers has undertaken to the works council to make the staff canteens available to the temporary agency workers on the same terms as for its own staff, and charges the temporary employment agency (lender) a flat-rate fee for this, which the temporary employment agency (lender) then passes on to the hirer, there is no provision of services between the hirer and the temporary employment agency (lender). In a case recently decided by the German Federal Fiscal Court, a temporary employment agency (lender/claimant) had supplied temporary workers to a stock company (hirer). The temporary workers could use the canteens at the same discounted rates as the permanent employees. Under the agreement regarding the usage of the canteen, the temporary employment agency (lender) was to pay a flat-rate fee to the hirer. The hirer invoiced the temporary employment agency (lender) for the usage of the canteen with VAT shown separately. The temporary employment agency (lender) settled these net payments with the hirer in addition to the agreed remuneration for the personnel services, with VAT shown separately. Based on these invoices, the temporary employment agency (lender) invoked the right to deduct input tax. The temporary employment agency (lender) regarded the amounts paid by the hirer as remuneration for the provision of temporary staff. Conversely, the German Federal Fiscal Court held that the invoicing and reversal served merely to allocate cost shares. As the invoicing and reversal were not based on any services rendered, no right to deduct input tax was assumed.

*German Federal Fiscal Court, judgment of 16 April 2026 – V R 1/25*

### No cash accounting where a professional partnership voluntarily prepares balance-sheet accounts

In a case recently decided by the German Federal Fiscal Court, a partnership comprising solicitors, auditors, and tax advisers determined its profit using the business assets comparison method. It applied for taxation based on received consideration. According to the German Federal Fiscal Court, members of a liberal profession cannot claim the tax calculation based on received consideration if they voluntarily prepare business sheet accounts.

*German Federal Fiscal Court, judgment of 16 April 2026 – V R 16/24*

### Late filing surcharge in cases of refunds

When determining a late filing surcharge, the frequency with which the deadline has been missed must be considered within the scope of the tax authorities' discretion, even in cases of refunds. The legislator intended to regard the imposition of a late filing surcharge as appropriate, particularly in the case of repeated breaches of tax return obligations.

*German Federal Fiscal Court, judgment of 7 May 2026 – V R 26/24*

**Link to further information**

Deloitte Tax-News: Steuern – Indirekte Steuern/Zoll

# Fiscal Courts – Selection

### Estimation in cases of invoices with incorrect VAT statement

Following CJEU principles (judgment of 1 August 2025 – C-794/23, Finanzamt Österreich), the Berlin-Brandenburg Fiscal Court takes the view that an incorrect VAT statement issued to end consumers who are not entitled to deduct input tax does not pose any risk to tax revenue. Accordingly, it is permissible to estimate the proportion of supplies relevant to the risk to tax revenue in cases of small value invoices where it cannot be determined whether the recipient is a taxable person or end consumer. In the case recently decided by the Berlin-Brandenburg Fiscal Court, the claimant operated a restaurant in 2021 and 2022. During the period in question, the reduced VAT of 7% applied to restaurant and catering services, with the exception of the supply of drinks. However, the claimant charged the guests VAT at the standard VAT rate of 19%. It was not possible to verify whether the invoices had been issued to business or non-business customers. Thus, the Berlin-Brandenburg Fiscal Court estimated the proportion of invoices for which there was a risk to tax revenue.

*Berlin-Brandenburg Fiscal Court, judgment of 25 June 2026 – 2 K 2046/25, legally binding*

### Evidence for exempt exports and intra-Community supplies

A taxable person claiming that supplies of motor vehicles are exempt as exports or intra-Community supplies must provide the required evidence of transport or dispatch. Where the taxable person previously declared corresponding intra-Community acquisitions and deducted input VAT, an unsupported later assertion that the vehicles never entered Germany is insufficient.

*Münster Fiscal Court, judgment of 19 May 2026 – 15 K 1452/25 U, legally binding*

### Onward payment of group bonuses does not reduce the taxable amount

The onward payment of group bonuses received by a central settlement agent does not reduce the taxable amount of the services supplied by the agent to its affiliated customers. Nor does the customer supply a service for consideration merely because it receives an economic benefit that is an incidental consequence of the agent's own business activities.

*Münster Fiscal Court, judgment of 19 May 2026 – 15 K 3483/18 U, appeal pending,*
*German Federal Fiscal Court: V R 21/26*

# Tax Authorities

### Electricity balancing group model

The Ministry of Finance of Mecklenburg-Western Pomerania commented on the VAT treatment of the electricity balancing group model. Under this model, electricity from renewable energy sources is generated on a property owned by the plant operator and is consumed directly on site, used at the operator's own consumption points, or sold to the grid operator. If the plant operator feeds electricity generated by himself but not consumed on-site into the public grid without receiving a feed-in tariff or other remuneration, and if he can withdraw the fed-in electricity at other own consumption points without separate payment and use it, this does not constitute a supply of electricity at the time of the feeding into the grid or the (re)withdrawal. However, the provision of balancing group management services for a fee, in particular the commercial allocation and billing of the quantities of electricity generated and consumed, constitutes a separate service.

*Ministry of Finance of Mecklenburg-Western Pomerania, decree of 22 July 2026 – S 7100-00000-2017/004-003*

### Payments based on the entitlement to a share

The share of revenue paid to newspaper publishers under sec. 87k of the German Copyright Act constitutes consideration for a taxable supply of service. The reduced VAT rate applies to the supply between the author and the collecting society as well as to that between the collecting society and the newspaper publisher. However, the CJEU principles (judgment of 18 January 2017 – C-37/16, SAWP) are not applicable to claims arising from copyright-based rights of use. This applies both to the exercise of ancillary copyright for press publishers under sec. 87g of the German Copyright Act and the entitlement to a share of revenue under sec. 87k of the German Copyright Act.

*Ministry of Finance of Schleswig-Holstein, information of 7 July 2026 –VI 3510-S 7100-513*

### Inter-municipal cooperation

The Regional Finance Directorate Frankfurt am Main commented on the taxation of supplies by legal entities under public law in the context of inter-municipal cooperation. It clarifies that municipal working groups, as a non-binding form of cooperation without legal personality of their own, are not taxable persons. Opposingly, special-purpose associations may, depending on their structure, carry out commercial activities. In the case of a delegation with discharging effect, the transfer of tasks does not give rise to any significant distortion of competition, so that no VAT is triggered. By contrast, in the case of a mandate where the body delegating the tasks remains the authority responsible, the status as taxable person is generally to be assumed.

*Regional Finance Directorate Frankfurt am Main, decree of 24 June 2026 – S 7107 A-00006-0357-St 1-St 110.2*

### Information provided to law enforcement agencies and criminal courts

The Berlin Senate Department for Finance has issued a statement on the conditions governing the provision of information in relation to non-tax offences. Accordingly, tax authorities may disclose tax-privileged information to law enforcement authorities and criminal courts exclusively within the scope of the disclosure provisions set out in sec 30(4) and (5) of the German Fiscal Code. Requests for information under sec. 96 and 161 of the German Code of Criminal Procedure do not confer any authority to breach tax secrecy. Rather, the authority to disclose information and the proportionality of the data transfer must be assessed in each individual case.

*Senate Department for Finance Berlin, decree of 29 May 2026 – S 0130-1/2012-1*

## Other news – Selection

### Special schemes

The European Commission published the Implementing Regulation (EU) 2026/1869 of 27 July 2026 in the Official Journal of the European Union. It amends the administrative rules governing special schemes in the light of recent amendments to the VAT Directive and Regulation (EU) No 904/2010. Accordingly, the terminology and scope of the special schemes were updated. The definition of the Union scheme was also amended. Besides, a definition of the scheme for the transfer of own goods was introduced. In addition, the registration rules were amended to require the Member State responsible for identification to pre-fill data already available. Furthermore, the rules on the submission and exchange of VAT returns were updated.

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## Webcast

VAT Insights | 24 September 2026

## Podcast

Tax on Air | VAT & AI

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