



## VAT's new?

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

## Highlight

### **Adoption of the VAT in the Digital Age package**

The VAT in the Digital Age (ViDA) package has been adopted on 11 March 2025 following consultation of the European Parliament. It will be rolled out gradually until January 2035. The ViDA package is designed to modernize the EU's VAT system by improving VAT collection and simplifying VAT rules. The initiative's specific objectives are to improve reporting requirements, unlock the opportunities provided by digitalisation, create a level playing field for businesses, regardless of their business model, reduce fragmentation, and minimise the need to register for VAT in multiple EU countries.

### **Links to further information**

[europa.eu](https://europa.eu)

[Deloitte Tax News](#)

[tax@hand](mailto:tax@hand)

## News

### **VAT refund procedure in cases of advance payment invoices**

If the advance payment invoice, the performance of the supply, and the final invoice all pertain to the same refund period, a refund request can also include the amount related to the advance payment invoice. This applies even if the request only references the final invoice, in which the VAT from the advance payment invoices was deducted. In such cases, the requested refund must reflect the total sum of the input tax amounts.

*Federal Fiscal Court, judgment of 12 December 2024, V R 6/23*

### **No liability of the property purchaser for incorrect VAT statements made by the previous owner**

The person designated as the invoice issuer under Sec. 14c para. 1 sentence 1 of the German VAT Act can only be held liable if he or she was involved in creating the invoice or if the issuance can be attributed to him or her under the applicable rules for legal transactions, including the right of representation. The previous owner's incorrect VAT statement cannot be attributed to the purchaser under Section 566 para. 1 of the German Civil Code, meaning that the purchaser is not liable for incorrectly stated VAT.

*German Federal Fiscal Court, judgment of 05 December 2024 – V R 16/22*

### **Small business scheme from 1 January 2025 onwards**

By the Annual Tax Act 2024 of 2 December 2024 (Federal Law Gazette 2024 I no. 387), the small business scheme was amended (Sec. 19 of the German VAT Act). Further, a new procedure for applying the VAT exemption in other EU Member States has been introduced (Sec. 19a of the German VAT Act). Additional provisions have also been revised (Sec. 15, 15a, 20, 24, 27a of the German VAT Act). Moreover, Sec. 34a of the German VAT Implementing Regulation has been added. The amendments are designed to implement EU VAT rules.

Under Sec. 19(1) of the German VAT Act, the supplies of small entrepreneurs are exempt from VAT if their previous annual turnover and current annual turnover do not exceed specific thresholds. If a VAT amount is incorrectly stated on an invoice for a supply under the small business scheme, the VAT is generally due under Sec. 14c(1) of the German VAT Act. However, VAT does not arise if a taxable person under the small business scheme carries out supplies of goods or services to private customers and incorrectly states VAT on invoices (Federal Ministry of Finance, letter of 27 February 2024, Federal Tax Gazette I 2024, 361, no. 5 with reference to CJEU, judgment of 8 December 2022, C-378/21, Finanzamt Österreich).

Taxable persons established in other EU Member States can apply the small business scheme in Germany (Sec. 19(4) of the German VAT Act). Conversely, taxable persons established in Germany can apply the small business scheme in other EU Member States without being required to register with the Tax Authorities in those Member States. They fulfill their filing obligations with the Federal Central Tax Office (Sec. 19a of the German VAT Act). The Federal Ministry of Finance has revised the VAT Application Decree accordingly.

*Federal Ministry of Finance, letter of 18 March 2025, III C 3 – S 7360/00027/044/105*

### **Supplies of goods for equipping or maintaining a means of transport to private purchasers**

If goods are designated for equipping or maintaining a means of transport, a VAT-exempt export presupposes that the purchaser is a foreign taxable person (Sec. 6(3) of the German VAT Act). In addition, the means of transport must serve the business purposes of the purchaser. Therefore, the VAT exemption for exports in non-commercial travel does not apply to the supply of goods intended to equip or maintain any non-commercial means of transport. To identify the goods designated for equipping or maintaining the means of transport that are used for non-businesses purposes, the German Federal Ministry of Finance has published a letter and revised Sec. 6.4 of the German VAT Application Decree.

*Federal Ministry of Finance, letter of 12 March 2025, III C 3 – S 7133/00043/001/076*

### **Administrative guidance for criminal tax and regulatory fine proceedings**

The Supreme Tax Authorities of the Federal States have updated their guidelines for criminal tax and regulatory fine proceedings. The update includes guidance on various issues, including common procedural principles, tax investigations, tax confidentiality, the duty to disclose information, cooperation with other authorities, requests for information, and the prohibition on the use of specific evidence.

*Supreme Tax Authorities of the Federal States, decrees of 7 February 2025, S 0700; S 0720*

### **Holding company whose sole activity consists of supplying taxable services to its subsidiaries**

Article 72 and 80 of Council Directive 2006/112/EC of 28 November 2006 on the common system of VAT must be interpreted as meaning that the various management services (company management and financing services, as well as real estate, IT and personnel management services), provided by a managing holding company to its subsidiaries, are by no means always unique services for which it is impossible from the outset to determine a comparison value for the purposes of the first paragraph of Article 72 of that directive.

*CJEU, opinion of Advocate General Kokott of 6 March 2025 – C-808/23, Högkullen*

### **Relationship between customs legislation and VAT legislation**

Article 143(1)(e) of the VAT Directive only requires that the substantive conditions laid down in Article 203 of the Customs Code are fulfilled. In so far as a customs debt under Article 79 of the Customs Code has only been incurred through non-compliance with the customs declaration obligation under Article 158(1) of the Customs Code and the presentation obligation under Article 139(1) of the Customs Code or the lack of an application for relief from customs duty under Article 203 of the Customs Code, the re-importation of returned goods within the meaning of Article 203 of the Customs Code is exempt from VAT. For that reason, it is irrelevant for the import VAT exemption under Article 143(1)(e) of the VAT Directive whether the requirements for a relief under Article 86(6) of the Customs Code (on account of the lack of an attempt at deception) are fulfilled.

*CJEU, opinion of Advocate General Kokott of 6 March 2025 – C-125/24, Palmstråle*

### **Impossibility of recovering the VAT paid**

Articles 168 and 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of VAT, as well as the principles of the neutrality and effectiveness, must be interpreted as not precluding a piece of national legislation or a national administrative practice which does not allow a taxable person to obtain the deduction of the input VAT on a transaction which, following a tax audit, has been reclassified by the tax authorities as a transaction not subject to VAT, even though it appears impossible or excessively difficult for that taxable person to obtain, from the seller, reimbursement of the VAT thus unduly paid. However, those principles require that, in such a situation, that taxable person be able to apply directly to the tax authorities for reimbursement.

*CJEU, judgment of 13 March 2025, C-640/23, Greentech*

### **Joint and several liability of the former chairperson of the management board of the taxable person**

Article 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of VAT, read in conjunction with Article 325(1) TFEU, the rights of the defence and the principle of proportionality, must be interpreted as not precluding national legislation and practice under which a third party who may be held jointly and severally liable for the tax debt of a legal person cannot be a party to the proceedings brought against that legal person to establish the tax debt of that legal person, without prejudice to the need for that third party, during any joint and several liability proceedings brought against that third party, to be able effectively to call into question the findings of fact and the legal classifications made by the tax authority in the context of the first set of proceedings, and to have access to the file of the tax authority, in accordance with the rights of that person or of other third parties.

*CJEU, judgment of 27 February 2024 – C-277/24, Adjak*

### **Electronic VAT exemption certificate: new regulation published in the EU Official Journal**

With the Council Implementing Regulation (EU) 2025/248 in the Official Journal of the EU of 18 February 2025, the regulation come into force on March 20, 2025. The new regulation provides for an electronic certificate to replace the paper version that previously had to be signed by hand and is used for goods that are to be exempt from VAT because they are imported for embassies, international organizations or armed forces, for example.

During a transitional period (until June 30, 2032), Member States should be able to use both the electronic version and the paper version (paper certificate according to Annex II of Regulation (EU) No. 282/2011). From July 1, 2032, the use of the electronic certificate is mandatory and the use of the paper certificate is excluded.

The scope of mandatory use of the electronic certificate of VAT exemption is limited to cases involving two member states and where the exemption is not granted by means of a refund.

### **Links to further information**

[eur-lex.europa.eu](https://eur-lex.europa.eu)

[Deloitte Tax News](#)

### **EU-Norway Agreement on administrative cooperation, combating fraud and recovery of claims**

The European Parliament has adopted a legislative resolution approving the amendment of the Agreement between the EU and Norway regarding administrative cooperation, fraud prevention, and recovery of VAT claims. The Parliament's approval allows its President to communicate this position to the Council, the European Commission, and the relevant governments and parliaments of EU Member States and Norway, solidifying the legislative process regarding VAT collaboration.

### **Link to further information**

[europa.eu](https://europa.eu)

### France – Reduction of the tax exemption threshold for small businesses postponed

The French government postponed the reduction of the threshold for the VAT exemption for small businesses to EUR 25,000 until 1 June 2025. This change was originally scheduled to take effect on 1 March 2025, as part of the recently passed Finance Act for 2025.

#### Link to further information

[presse.economie.gouv.fr](https://presse.economie.gouv.fr)

### United Kingdom – HMRC impact evaluation on making tax digital for VAT

HMRC published a report summarising the key findings and conclusions of the impact evaluation on making tax digital for VAT.

#### Link to further information

[gov.uk](https://gov.uk)

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