



## VAT's new?

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

## Highlights

### Time of exercising the right of input tax deduction

1. The judgment of the General Court of the European Union of 11 February 2026, Dyrektor Krajowej Informacji Skarbowej (T689/24, EU:T:2026:113), shall be reviewed.
2. The review shall concern the question whether, having regard, in particular, to the judgments of 29 April 2004, Terra Baubedarf-Handel (C152/02, EU:C:2004:268), and of 12 March 2026, Aptiv Services Hungary (C521/24, EU:C:2026:191), the judgment of the General Court of the European Union of 11 February 2026, Dyrektor Krajowej Informacji Skarbowej (T689/24, EU:T:2026:113), affects the unity or consistency of Union law in that the General Court held that:  
  
Article 167, Article 168(a) and Article 178(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principles of value added tax (VAT) neutrality and of proportionality must be interpreted as precluding national legislation under which a taxable person may not assert his or her right to deduct input tax in a return submitted for a period in which he or she satisfied the substantive conditions for exercising that right if, during that period, he or she had not yet received the corresponding invoice, even though he or she did receive the invoice before submitting the return.
3. The interested persons referred to in Article 23 of the Statute of the Court of Justice of the European Union are invited to lodge their written observations on that question at the Court of Justice within one month of service of the present decision."

*CJEU, decision of 26 March 2026 – C-167/26 RX*

### Links for further information

[Deloitte Tax-News: EuGH: Zeitpunkt des Vorsteuerabzugs – und es bleibt doch, wie es ist?](#)  
[VAT Insights | Aktuelles aus der Umsatzsteuer | Deloitte Deutschland | Tax & Legal | Webcast](#)  
[Tax on Air – Der Podcast zum Steuerrecht | Deloitte Deutschland, Episode #33, „Deloitte meets MwStR – Folge 3“, Zeitpunkt des Vorsteuerabzugs](#)

### Admission of appeal in a case regarding the timing of claiming input tax deduction

Considering the General Court's judgment on the timing of the exercise of the right to deduct input tax (General Court, judgment of 11 February 2026 – T-689/24, Dyrektor Krajowej Informacji Skarbowej), the German Federal Fiscal Court has granted the leave to appeal to clarify the question of whether a deductible input tax amount already exists for the taxation period in which the supply was received if the billing document received during that period does not contain the necessary information to be qualified as a correctable invoice, and the recipient obtains a correction after the expiration of the preliminary VAT return period of the supply.

*German Federal Fiscal Court, decision of 26 February 2026 – V B 11/25*

### Link for further information

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

### Input tax deduction for intra-Community acquisitions

“Article 168(c), Article 178(c), and Articles 179, 180 and 182 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, read in the light of the principles of fiscal neutrality, proportionality and effectiveness, must be interpreted as precluding national legislation and an administrative practice under which the deduction of value added tax relating to intra-Community acquisitions of goods is refused on the ground that the taxable person exercised his or her right of deduction in the tax period during which he or she actually received the invoices necessary for the exercise of that right, which was subsequent to the period during which those acquisitions had been made, even though that taxable person exercised that right in good faith and within the limitation period.”

*CJEU, judgment of 12 March 2026 – C-521/24, Aptiv Services Hungary*

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## News

### Transfer of partial facilities (parts of a solar park) to various purchasers

The sale of parts of a solar park to various purchasers does not qualify as a non-taxable transfer of a going concern if the seller continues his economic activities (electricity feed) and the remuneration claim under the Renewable Energy Act is exclusively due to the plaintiff.

*German Federal Fiscal Court, judgment of 13 November 2025 – V R 32/24*

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### No transfer of a going concern in the event of business continuity by a lessee

For a non-taxable transfer of a going concern, the intention to continue the business activity is not required to exist with regard to every intermediate acquirer. Rather, it is decisive that the final purchaser intends to continue the business. In a case where the leasing of the transferred assets is not regarded as a continuation of the previous business activity, the lessee's intention is indecisive.

*German Federal Fiscal Court, judgment of 13 November 2025 – V R 3/23*

#### Link for further information

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### Determining the place supply of services

According to the German Federal Fiscal Court, the place of supply of services is not in Germany if the service is commissioned by a domestic liaison office of the recipient whose place of establishment is in a third country and used for the business activities at the recipient's place of establishment in the third country. In the case recently decided by the German Federal Fiscal Court, an entity based in a third country maintained a liaison office in Germany. The advertising services commissioned by this office were used to generate bookings that were processed exclusively via the entity in the third country. The Federal Fiscal Court upheld the Fiscal Court's view that the services were not used for the own purposes of the liaison office. The input tax deduction from the invoiced advertising services was ruled out, as there was no VAT legally due in the absence of a place of supply in Germany. The fundamental question of whether a fixed establishment must carry out own output supply was left open.

*German Federal Fiscal Court, judgment of 4 December 2025 – V R 37/23*

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### **Animal tendons and stomachs**

According to a recent ruling of the German Federal Fiscal Court, dried and cut-up ostrich stomachs are to be classified under heading 0504 of the Combined Nomenclature (CN), regardless of their edibility. Consequently, these products are not subject to the reduced VAT rate. Furthermore, horse tendons, ostrich knee tendons, deer tendons and ostrich tendons are to be subject to the reduced VAT rate if are edible. Edibility is determined by the objective characteristics and properties of the products, which must justify their suitability for human consumption. It must be examined on a case-by-case basis whether the specific tendons are suitable for human consumption and therefore subject to the reduced VAT rate.

*German Federal Fiscal Court, judgment of 20 January 2026 – VII R 19/24*

## Selection of cases pending before the German Federal Fiscal Court

### **Protection of legitimate expectations in case of intra-Community supplies**

In a case recently decided by the Baden-Württemberg Fiscal Court, the supplier exercised the due care expected of a prudent businessman by regularly checking the VAT ID number of his contractual partner. Therefore, the Fiscal Court held that the intra-Community supplies were exempt from VAT. The appeal is pending before the Federal Fiscal Court.

*Baden-Württemberg Fiscal Court, judgment of 3 April 2025 – 12 K 831/24, appeal pending, German Federal Fiscal Court: V R 45/25*

### **Link for further information**

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### **Direct claim in event of insolvency**

If the refund of VAT is impossible or unduly difficult, particularly in the event of the insolvency of the supplier, the principles of neutrality and effectiveness require that the recipient can apply for a refund directly to the tax authorities. A decision on this direct claim is to be made in equity proceedings. The refusal of an equity measure constitutes an error of discretion if the supplier applied the general VAT rate to a supply subject to the reduced VAT rate, paid the VAT to the tax authorities, and did not claim a refund, whereas the recipient made every reasonable effort to obtain reimbursement, but this proved unsuccessful due to the insolvency proceedings concerning the supplier's assets. The court did not agree with the tax authorities' view that the mere insolvency of the supplier was not sufficient to conclude that a refund by the supplier was impossible from the outset or disproportionately difficult, as the recipient still had the prospect of receiving part of the claimed amount in proportion to the distribution ratio. Furthermore, the court did not share the tax authorities' view that the direct claim was subordinate to the recipient's claim against the supplier.

*Baden-Württemberg Fiscal Court, judgment of 9 April 2025 – 14 K 21/24, appeal pending, German Fiscal Court: V R 25/25*

### **Provision of staff to a public body without legal personality**

In a recent case, the Baden-Württemberg Fiscal Court held that the provision of staff by a public-law body, which did not have the status of an entrepreneur, to a public body without legal personality was not subject to VAT. The decisive factor was that the service was provided on the basis of public law and did not result in any distortion of competition. The obligation to supply staff was imposed exclusively on the cooperation partners based on a cooperation agreement and was structurally excluded from the sphere of private third parties.

*Baden-Württemberg Fiscal Court, judgment of 26 March 2025 – 14 K 1953/20, appeal pending, German Federal Fiscal Court: V R 16/25*

## Fiscal Courts – Selection

### **Production and distribution of official gazettes in exchange for the right to publish ads**

In a recent case, the Baden-Württemberg Fiscal Court held that a barter-like transaction existed due to the link between the production and distribution of municipal gazettes by the claimant and the rights granted to it by the municipalities to place advertisements in the gazettes, based on the contracts concluded with the municipality. The supplies made by the claimant were taxable even if they were carried out pursuant to a statutory requirement. For the basis of assessment, the claimant's production and distributions costs must be considered.

*Baden-Württemberg Fiscal Court, judgment of 24 October 2025 – 1 K 1173/23, compliant against the refusal of leave to appeal*

### **Guest card as multi-purpose voucher**

A guest card issued to enhance the attraction of a holiday region in collaboration with service partners and accommodation providers to overnight guests can qualify as multi-purpose voucher. It is irrelevant that the guest card does not have a monetary value. If the voucher covers services subject to the standard and reduced VAT rate, the VAT liability is determined at the time the voucher is redeemed.

*Munich Fiscal Court, judgment of 25 November 2025 – 5 K 1392/22, legally binding*

### **Invoicing in case of mixed pallets**

A billing document that lacks the information required by the tax authorities to assess whether the requirements of the right to deduct tax are met does not constitute an invoice within the meaning of the VAT Directive. An input tax deduction based on such a document is not permitted. The details contained in an invoice describing the supply must allow the invoiced supply to be identified, which depends on the circumstances of the individual case. The mere assembly and temporary securing of various items, which remain marketable, on a pallet does not result in the independent supply of a mixed pallet.

*Münster Fiscal Court, judgment of 11 December 2025 – 5 K 1900/23, legally binding*

### **Input tax deduction in the event of a change in the use of company assets**

If the use of an asset changes, the subsequent use is considered through an adjustment under sec. 15a of the German VAT Act. It does not result in a correction of the original input tax deduction if it occurs in the year the asset was acquired.

*Berlin-Brandenburg Fiscal Court, judgment of 25 February 2026 – 7 K 7033/25, non-binding*

### **Right of retention in case of invoices requiring correction**

A claim for correction of an invoice arises as an ancillary contractual obligation in cases where both contractual parties agree that the invoice requires correction, provided that the customer has an interest in being able to claim a tax deduction for the supplies. The customer may assert a right of retention, which covers the contractor's entire claim for remuneration.

*Hamm Higher Regional Court, judgment of 13 March 2026 – 12 U 138/25, non-binding*

## German Federal Ministry of Finance – Selection

### Revision of the German Fiscal Code Application Decree

In a recent letter, the German Federal Ministry of Finance updated the Application Decree regarding sec. 146a of the German Fiscal Code, especially, against the background of the Second Ordinance amending the Cash Register Security Ordinance. Accordingly, all information on the receipts must be legible, readable via a QR code, or included in the structured part of an electronic invoice. In cases of e-invoices created via an external service provider, it suffices to create a receipt on-site and then transmit the data to the service provider for the creation of the e-invoice in close temporal proximity. Additionally, the guidance was updated regarding the amended transition and implementation deadlines for EU taximeters and odometers.

*German Federal Ministry of Finance, letter of 17 March 2026 – IV D 2 - S 0316-a/00027/008/020*

### Non-taxable intra-group supplies in the context of non-economic activities in the narrow sense

The German Federal Ministry of Finance adopted the CJEU and German Federal Fiscal Court principles regarding non-taxable intra-group supplies (CJEU, judgment of 11 July 2024 – C-184/23, FA T II; German Federal Fiscal Court, judgment of 29 August 2024 – V R 14/24). It clarifies that the non-taxability of intra-group supplies is not limited to supplies for business purposes but also extends to supplies used for non-economic activities in the narrow sense. The German VAT Application Decree was updated accordingly.

*German Federal Ministry of Finance, letter of 1 April 2026 – III C 2 - S 7105/00035/008/056*

### Link for further information

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### Input tax deduction and benefit in kind

The German Federal Ministry of Finance revised its position on input tax deduction in cases where assets are used partly for business purposes. In particular, the new administrative guidance relates to the distinction between the benefit in kind and the input tax adjustment in the event of a change in the ratio of use between economic activities and non-economic activities in the strict sense. Accordingly, the previous assumption of a benefit in kind in the event of a subsequent reduction in the business proportion of use in favour of non-business activities is redundant. Instead, an input tax adjustment must be considered. If the use for non-economic activities in the strict sense increases, input tax must be adjusted. In the case of items that are used for both business and non-economic activities, there is no option to allocate them to the business, but rather a requirement to apportion them, with a corresponding proportional deduction of input tax. Supplies made from the economic sphere to the entity's non-economic sphere are not taxable and do not give rise to input tax deduction. In the case of legal entities governed by public law, the provision of personnel from the economic sphere to the entity's sovereign sphere does not constitute a benefit in kind. These principles apply to all pending cases, although the previous administrative guidance may be applied until 31 December 2026.

*German Federal Ministry of Finance, letter of 1 April 2026 – III C 2 - S 7316/00022/007/023*

### Link for further information

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### Supplies made free of charge in cross-border cases

Cross-border supplies of goods made free of charge are not covered by the VAT exemption for intra-Community supplies. In a recent letter, the German Federal Ministry of Finance clarified that the VAT exemption for intra-Community supplies requires a corresponding acquisition in another Member State, which presupposes that the supply is made for consideration. The German VAT Application Decree was updated accordingly.

*German Federal Ministry of Finance, letter of 31 March 2026 – III C 3 - S 7140/00020/001/069*

### VAT exemption for supplies of goods preceding importation

In a recent letter, the German Federal Ministry of Finance updated the administrative guidance regarding the VAT exemption for supplies of goods preceding importation, considering, in particular, the changes to customs law introduced by the Union Customs Code. Accordingly, the VAT exemption applies to supplies of non-Union goods under special customs procedures if the customer or a subsequent customer terminates the procedure by importation or re-exportation. It is irrelevant whether the customer is resident in Germany or entitled to deduct input tax. Upstream supplies can also be exempt from VAT.

*German Federal Ministry of Finance, letter of 9 April 2026 – III C 3 - S 7157-a/00005/001/052*

#### Link for further information

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### Entrepreneurial status of communities by undivided shares

According to the German Federal Fiscal Court, communities by undivided shares cannot be considered as taxable persons due to their lack of legal capacity (German Federal Fiscal Court, judgment of 22 November 2018 – V R 65/17; judgment of 7 May 2020 – V R 1/18). Subsequently, the German VAT Act was amended with effect from 1 January 2023. Accordingly, the status as a taxable person can exist regardless of legal capacity. In a recent letter, the German Federal Ministry of Finance clarified that communities by undivided shares can be considered to be taxable persons if the business activities of their members are attributed to the community. Although such a community cannot carry out any activities, the members may act jointly in dealings with third parties, for example by entering into a tenancy agreement. The German VAT Application Decree has been amended correspondingly.

*German Federal Ministry of Finance, letter of 9 April 2026 – III C 2 - S 7104/00030/006/041*

#### Link for further information

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### Reduced VAT rate for Sudoku magazines

After the CJEU judgment of 1 August 2025 – C-375/24, *Keesing Deutschland*, the German Federal Ministry of Finance published an administrative guidance on the reduced VAT rate for Sudoku magazines. Accordingly, Sudoku magazines are subject to the reduced VAT rate if they meet the requirements of the description under heading 4902 of the Customs Tariff. In contrast, Sudoku books qualify as other printed matter so that they are subject to the general VAT rate. In cases of doubt regarding the distinction between Sudoku magazines and books, a non-binding customs tariff information may be requested from the Federal Finance Administration.

*German Federal Ministry of Finance, letter of 10 April 2026 – III C 2 - S 7225/00009/002/051*

## CJEU | General Court – Selection

### Services by travel agents in relation to travel outside the EU

“1. Article 28(3)(a) and (4) of and Annex E(15) to Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment, and Article 370 of and Annex X, Part A, point (4), to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the derogating regime that they establish does not require a national statutory provision expressly establishing a derogation from the exemption from value added tax (VAT) for the supply of services by travel agents in relation to travel outside the European Union laid down in Article 26(3) of Directive 77/388 and in Article 309 of Directive 2006/112.

2. Article 28(3)(a) and (4) of and Annex E(15) to Directive 77/388 and Article 370 of and Annex X, Part A, point (4), to Directive 2006/112 must be interpreted as meaning that a legislative amendment that took effect after the entry into force of Directive 77/388, which deletes an express legislative provision under which the supply of services by travel agents in relation to travel outside the European Union was not exempt from VAT and replaces it with provisions from which it follows only implicitly that the supply in question remains taxable, does not have to be regarded, by reason of that fact alone, as legislation that is not identical in its main points to the previous legislation and that is based on a different approach."

*General Court, judgment of 25 March 2026 – T-221/25, TUI Belgium*

### **Input tax deduction in the event of general costs**

"Article 173(1) 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 costs incurred for the acquisition of goods and services required by national legislation for the provision of healthcare services in respect of which VAT is not deductible, but also used for the provision of services in respect of which VAT is deductible, do not constitute, on account of that statutory requirement alone, general costs in respect of which a proportion of the VAT is deductible."

*CJEU, judgment of 19 March 2026 – C-513/24, Oblastní nemocnice Kolín*

### **Input tax correction**

Articles 19 and 29 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a taxable person remains obliged to adjust the input tax in respect of the acquisition, construction, conversion or renovation of business premises, even if the business premises are rented out at the same time as the transfer of the taxable business carried on therein, which is classified as a transfer of all or part of the assets, by the transferor to the transferee, who continues the business operations.

*CJEU, opinion delivered by Advocate General Brkan on 15 April 2026 – T-397/25, A&P Deco*

## Other news – Selection

### **EU Tax Symposium 2026**

On 16 and 17 March 2026, the European Parliament and the European Commission hosted the EU Tax Symposium 2026 in Brussels. During the event, the participants discussed how taxation can contribute to fairness, growth, and competitiveness. The focus was on closing the VAT gap – one of the main causes of revenue losses in the EU. Recommendations included appropriate VAT rates, simplified VAT systems, and split-payment mechanisms to reduce incentives for VAT fraud. Digitalization and automation, including e-invoicing, pre-filled VAT returns, and AI-supported audits, were regarded as key tools for improving compliance. Regarding the ViDA package, calls were made for improved data exchange at the EU level and the modernization of outdated audit systems. Overall, the participants called for coordinated, pragmatic reforms that combine enforcement with a culture of voluntary tax honesty.

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

### **Meeting of the Working Group on Taxation (Indirect Taxation – VAT) of 31 March 2026**

The Working Group on Taxation (Indirect Taxation - VAT) published the agenda of its meeting of 31 March 2026. In particular, the Proposal for a Council Regulation on access of EPPO and OLAF to VAT information at EU level and the Directive on VAT rules on the abolition of the €150 threshold and on customs warehouses for distance sales were discussed.

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

### Meeting of the Working Party on Taxation (Indirect Taxation – VAT) of 21 April 2026

The Working Party on Tax Questions (Indirect Taxation - VAT) published the agenda for its meeting on 21 April 2026. The participants discussed, inter alia, the latest developments regarding the abolition of the €150 threshold for distance sales for both VAT and customs purposes, and the state of play regarding the implementation of the ViDA package.

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

## Podcasts April/Mai 2026

Episode #34: „Deloitte meets MwStR - Folge 4“ – Digitale Meldepflichten und ViDA

Episode #33: „Deloitte meets MwStR - Folge 3“ – Zeitpunkt des Vorsteuerabzugs

Episode #32: USt-Voranmeldung: Feld 500, steuerliche E-Mail-Prüfung und BGH trennt: Voranmeldung und Jahreserklärung sind zwei getrennte Taten

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