



Ukraine war: (value added) tax relief for aid measures and donations

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1 War in the Ukraine | Federal Ministry of Finance reacts with a catastrophe decree

The Federal Ministry of Finance has reacted to the various activities because of the war in Ukraine with a catastrophe decree (Federal Ministry of Finance's letter of 17 March 2022). (Value added) tax relief is intended to honour the collective commitment of society in providing support to those affected by the war. The regulations apply (for the time being) until 31 December 2022.

2 Special tax regulation to support those affected by the war

The Federal Ministry of Finance has issued numerous special regulations. The Ministry partly falls back on the regulations previously used for combating the economic consequences of the coronavirus pandemic and last year's flood disaster.

Primarily, the Federal Ministry of Finance's letter regulates simplifications for the tax deductibility of donations. Instead of having available a proper donation receipt, in many cases the payment receipt will be sufficient to facilitate deduction of donations for tax purposes. Tax-privileged corporations are given the opportunity to collect donations for those affected by the war in the Ukraine without changing their articles of association. Under certain conditions, taxable persons can treat support to those affected by the war as a sponsorship measure.



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3 Accommodation of war refugees

War refugees are currently increasingly being accommodated in public facilities such as sports halls and schools. However, many companies organised under private law and private individuals are also providing accommodation free of charge. The Federal Ministry of Finance's letter includes detailed comments on this matter. Tax disadvantages, due to the temporary change of a facility's use to refugee accommodation, are to be avoided through special regulations and measures on equitable grounds.

Insofar as the regular supplies of special-purpose businesses, within the meaning of sec. 68 no. 1 lit. c of the German Fiscal Code, are exempt from VAT or subject to a reduced VAT rate, the respective special tax regulation should also apply to the temporary accommodation of refugees from war-stricken Ukraine. If refugees are temporarily accommodated in facilities that belong to the assets of legal entities under public law, the accommodation for consideration is to be assigned to the sovereign activity. An examination as to whether this constitutes business of a commercial nature can be omitted. Insofar as accommodation is provided in a facility of an existing business of a commercial nature, the general tax regulations apply. If the change of use results in an abandonment of the business of a commercial nature, no taxable profit should, under certain conditions, arise.

Private taxable persons who provide war refugees with accommodation, such as holiday flats and hotel rooms, which are usually rented out subject to VAT, will not be required to pay VAT on the supply carried out free of charge. Similarly, the obligation for an adjustment of the input VAT deduction, in accordance with sec. 15a of the German VAT Act, does not apply. Despite the provision of free accommodation, input VAT may be claimed from the supply of ancillary services in connection with the provision of accommodation, e.g. the purchase of electricity and water.

4 No VAT taxation in the case of free use of capital goods or provision of personnel

The tax authorities will refrain from taxing a supply carried out free of charge in cases where goods or personnel are provided free of charge to aid organisations. This equitable regulation applies to the free of charge provision of personnel and material resources to organisations that perform an "indispensable input" in coping with the consequences of war and includes, in particular, recognised aid organisations. If a taxable person, at the time of procurement of goods and services, already intends to use these goods and services for the privileged purposes, input VAT deduction can still be claimed.

5 Reduction of VAT on the supply of fuel and heating oil in individual EU states

As a result of the war, prices for fuel and energy supplies have risen enormously, and continue to demonstrate an upward trend. Individual EU Member States have already taken tax measures to cushion the impact of the increased prices (see KMLZ Newsletter 08 | 2022). In Germany, a reduction of VAT for fuel and heating costs is currently not planned. However, the temporarily reduced VAT rates, during the peak phase of the coronavirus pandemic in 2020, also came as a surprise. Taxable persons had little time to implement the VAT rate change. Taxable persons are therefore well advised to keep an eye on political developments in order to be in a position to adapt their processes, if need be, as quickly as possible.