



Annual Tax Act 2024: Small enterprises go international

1 Currently, special scheme for small enterprises only applies in Germany

To date, the special scheme for small enterprises in accordance with sec. 19 of the German VAT Act only applies in Germany. Small German enterprises must therefore pay VAT on the first Euro of supplies carried out in other EU countries. And vice versa: foreign small enterprises cannot benefit from sec. 19 of the German VAT Act. The ECJ approved this restriction on the freedom to provide services in 2010 (C-97/09 - *Ingrid Schmelz*), as it is laid down in the previous version of the Sixth EU Directive / EU VAT Directive.

2 The German legislator will implement changes to the VAT Directive as from 1 January 2025

The provisions on small enterprises in Art. 282 et seq. of the EU VAT Directive were therefore revised in 2020. EU Member States must adapt their national regulations by 1 January 2025. Germany is implementing these requirements by means of an amended sec. 19 of the German VAT Act (taxation of small enterprises) and a new sec. 19a of the German VAT Act (special reporting process). These legal provisions are accompanied by a new provision on the invoicing of small enterprises in sec. 34a of the German VAT Implementation Code.

3 Small enterprises established in Germany

Domestic supplies by domestic small enterprises will, in future, be VAT exempt. The rather strange-looking current regulation that the VAT would not be levied will be a thing of the past as from the turn of the year. The turnover limit of EUR 22,000 (previous calendar year) and EUR 50,000 (current calendar year) will be increased respectively to EUR 25,000 and EUR 100,000. It should be noted that these limits are currently based on gross amounts which will soon be net amounts. Furthermore, as from 2025 supplies for the current calendar year will be subject to a strict limit of EUR 100,000, above



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which the status as a small enterprise will cease to apply during the year. The currently valid EUR 50,000 limit is only based on a forecast. The conversion into a total annual turnover will also no longer apply.

4 EU small enterprises

4.1 Overview

As from 2025, EU small enterprises can also benefit from the special scheme for small enterprises in other EU Member States, provided they do not exceed a union-wide turnover limit of EUR 100,000. Small enterprises can report this to the tax authorities in the Member State in which they are established. A new sec. 19a of the German VAT Act will be created for German small enterprises by the Annual Tax Act 2024 (see 4.3 below). EU small enterprises will receive a small enterprises identification number that is valid throughout the Union.

4.2 EU small enterprises in Germany

If the taxable person established in another EU Member State is doing business in Germany, the German special scheme for small enterprises, in accordance with sec. 19 para. 4 of the German VAT Act (draft), also applies to it if

- the annual turnover in the Community territory determined in accordance with Art. 288 of the VAT Directive, ie the Union-wide annual turnover, did not exceed EUR 100,000 in the previous year and does not exceed EUR 100,000 in the current calendar (“double EUR 100,000 limit”), and
- the small enterprise has available an **insofar** valid small enterprise-ID issued by the country in which it is established.

4.3 German small enterprises in other EU countries: special reporting procedure / small enterprises-ID

If a German small enterprise intends to make use of the VAT exemption in another EU Member State, it must participate in an electronic reporting process in accordance with sec. 19a of the German VAT Act. The German Federal Central Tax Office (BZSt) will issue a small enterprises-ID with an annex “EX”. This requires, in particular, that the small enterprise does not exceed the “double EUR 100,000 limit” (see 4.2 above) and fulfils the requirements of the special scheme for small enterprises of the Member State granting the VAT exemption. The BZSt will have to enquire about the latter from the other Member State, which will then inform the BZSt of the result of its examination. If the taxable person is not (already) registered for the special scheme for small enterprises in any other Member State, the BZSt will issue an **insofar** valid small enterprises-ID. To ensure that compliance with the turnover limits can be verified, electronic turnover reports containing details of supplies in all Member States must be filed with the BZSt on a quarterly basis.

5 Invoices from small enterprises (sec. 34a of the German VAT Implementation Code (draft))

Until now, small enterprises have not been permitted to show VAT separately on their invoices; this will remain the case. What is new is that small enterprises must refer to the VAT exemption under sec. 19 of the German VAT Act (sec. 34a no. 5 of the German VAT Implementation Code). Many small enterprises have already done this in the past in order to avoid queries as to why no VAT is shown on the invoice. They will soon be obliged to provide this information.

6 Conclusion

The new special scheme for small enterprises will no longer stop at the national border. If the aforementioned conditions are met, it will apply throughout the EU. This result comes at the price of a special reporting process, which entails an immense administrative burden, and another ID number, the new small enterprises-ID. In any case, taxable persons with net supplies of up to EUR 25,000 should prepare themselves for the planned new regulation.