



VAT NEWSLETTER

Update on VAT rate reduction: Non-objection rule gives businesses one additional month for implementation of necessary changes

23 | 2020

1 Timetable

The VAT rate reduction planned for the period from 1 July to 31 December 2020 continues to be driven through the legislative process at record speed, even if the timetable has been slightly delayed. The Bundestag is now expected to pass the bill on the morning of 29 June, with the Bundesrat approving it in a special afternoon session.

2 Draft letter of the Federal Ministry of Finance

The Federal Ministry of Finance is also speeding up and published a first draft of an accompanying letter at the very start of the legislative process on 11 June. On 23 June, the Ministry published an updated draft of its letter, containing further regulations and clarifications.

3 Non-objection regulation

The most important change the Ministry has made is to include in no. 3.12 a non-objection regulation for the application of an incorrect (too high) VAT rate in the B2B sector. This regulation was requested by businesses, as they feared that the necessary changes would not prove feasible in the short amount of time available and that mistakes would be made to their detriment. In no. 2.8, the Ministry has determined that, in principle, the application of the old VAT rate in an invoice for a supply carried out in the "low-tax phase" will lead to unduly charged VAT in the amount of the difference between the old and the new VAT rate. Therefore, the recipient will not be entitled to deduct the difference as input VAT. An invoice correction would then be inevitable. However, this is put into perspective in no. 3.12. Accordingly, for reasons of simplification, no objection will be raised if a too high VAT rate is applied for supplies rendered in July 2020 in the B2B



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sector. In this case, an invoice correction will not be required. More importantly, the recipient will be permitted to deduct the invoiced VAT, in full, as input VAT. This gives businesses in the B2B sector a de facto additional month to adjust their processes. But an uncertainty could remain. Does the non-objection to input VAT deduction only apply if the supplier has paid the VAT in full? The wording in the Ministry of Finance's letter is not entirely clear here. If so, how do you control this? And recipients who are not fully entitled to deduct input VAT will certainly reject the regulation anyhow and ask their supplier to correct the invoice, as this will reduce their costs correspondingly.

4 Invoices for down payments

The Ministry of Finance had initially stated in no. 2.3 that amounts received before 1 July for supplies to be carried out in the "low-tax phase" were to be taxed at the reduced VAT rates. This was subsequently amended. The old VAT rates are to be applied to these advance payments. The recipient will also be entitled to deduct this "higher" input VAT. This means that down payment invoices do not have to be corrected if the reduced VAT rate is applied in the final invoice. However, once the supplies are performed, a correction must be made in the VAT return.

5 Contracts on long-term supplies

No. 3.3.1 of the Federal Ministry of Finance's letter additionally clarifies that as regards contracts for long-term supplies, which are to be regarded as invoices, the remuneration and the VAT rate for the period from 1 July to 31 December 2020 can be adjusted by issuing supplementary documents. The Federal Ministry of Finance has not addressed the question discussed in practice as to whether and in which cases this supplement to the contract requires the signature of both contracting parties.

6 Vouchers

In no. 3.4.3, the Federal Ministry of Finance clarifies that an additional payment by the voucher holder on redemption of the single-purpose voucher is taxable at the VAT rate applicable at the time the voucher is redeemed.

7 Electricity, Gas, Water, Cooling, Heat, Waste water

In no. 3.6, a further non-objection rule has been added to limit the administrative burden for invoices for payments on account due in the "low-tax phase". These should not have to be corrected, provided that the VAT of 19% or 7% shown therein is paid and is only correctly accounted for in the final invoice. Furthermore, for equitable reasons, it is not objectionable if customers entitled to input VAT deduction claim such deduction on the basis of 19% or 7% from the partial invoices and the input VAT deduction is only amended to the correct value on the basis of the final invoice.

8 Declarations

The Federal Ministry of Finance also regulates how 16% and 5% of turnover are to be declared in VAT returns. The existing forms will not be adapted. Rather, the supplies are to be declared as such at other VAT rates. There will be no separation between supplies subject to the standard VAT rate and those subject to the reduced rate. This also applies to intra-Community acquisitions.

9 Agriculture and forestry

After the draft law was extended, the Federal Ministry of Finance amended the draft application letter to the effect that the average VAT rate for agriculture and forestry under sec. 24 of the German VAT Act for the supply of certain sawmill products, beverages and alcoholic liquids will also be reduced from 19% to 16%.