



KMLZ VAT NEWSLETTER

Current legislative amendments to VAT law

Legislative changes aimed at reducing bureaucracy and modernizing taxation procedures will enter into force as of 01.01.2017. These changes include changes to VAT processes.

The law to decrease administrative burdens (Bürokratieentlastungsgesetz II) is aimed at helping, in particular, small and mid-sized businesses by reducing the burden of bureaucracy. These changes, however, will be applicable to businesses of all sizes. The Act, as regards the modernization of taxation procedures, aims to implement measures dealing with technical, organizational and legal modernization. These changes will have an impact on all businesses.

1. Bürokratieentlastungsgesetz II

Sec 33 sentence 1 German VAT Implementation Code: The threshold for minimum information as regards **invoices for small amounts** will be increased from the current amount of EUR 150 to EUR 200.

Sec 147 para 3 sentence 2 of the German Fiscal Code: The **retention period for delivery notes** to be observed by

Legislative amendments by the turn of the year

Some legislative amendments, which primarily apply to the formal law but will also impact on VAT, will enter into force by the turn of the year. The threshold for invoices for small amounts will be increased from EUR 150 to EUR 200. A shortened retention period of delivery notes is also planned. Whether the latter will be implemented is not yet clear, due to the reluctance of the German Federal Council. The deadline for filing annual VAT returns will be extended until 31 July of the following year, for tax consulted businesses, until the end of February of the second following year. Accompanying this, penalties for late filing will be tightened

the recipient, is to expire as soon as the recipient receives the invoice and for the issuer, at the time of dispatch of the invoice (provided that there are no accounting evidences in the invoice).

The German Federal Council argued against this amendment. It was of the opinion that the amendment is in conflict with the German Federal Government's key concern, namely to effectively combat tax fraud and that delivery notes were often the only approach to detect tax evasion as regards cash transactions. Whether and to what extent this regulation will actually be implemented is not yet possible to ascertain.

The law is currently being debated at the German Federal Council. The new provisions are intended to enter into force on 01.01.2017. However, they still require the consent of the German Federal Council.



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2. Modernization of the taxation process

Sec 149 para 2 sentence 1 German Fiscal Code: The **deadline for filing the annual VAT return** will basically end on 31 July of the following year. For tax consulted businesses, the deadline has been prolonged until the end of February of the second year, following the taxable period (sec. 149 para 3 of the German Fiscal Code).

In addition, sec 109 of the German Fiscal Code was amended according to which an extension can be granted only under strict conditions. Comparable to the *restitutio in integrum*, an extension will only be granted where the taxable person or its representative was prevented from complying with the legal deadline through no fault of his own.

An extension of the deadline is expected to have consequences for the allocation of supplies to the taxable activities and therefore for VAT deduction in accordance with sec 15 para 1 of the German VAT Act. To date, 31 May of the following year is considered to be the effective date. In the future, the legal deadline is likely to be 31 July.

Sec 152 German General Fiscal Code: The assessment of an **administrative fine due to late submission** of an annual VAT return will no longer be at the discretion of the tax office. If the (extended) deadline is missed, an administrative fine is to be determined. This fine will amount to 0.25% of the tax payable. However, tax is to be reduced by the advance payments that have already been made during the year. Therefore, an annual VAT return should not lead to any subsequent payment. Any subsequently detected amendments should be reported in corrected VAT returns, especially since corrected VAT returns have recently been

treated as partial voluntary self-disclosures, in order to avoid penalties.

Sec 18a para 11 of the German VAT Act: The provisions in the German Fiscal Code for VAT returns are to be applied to the **EC Sales List**. The filing of EC Sales Lists can now be enforced in accordance with sec 18a of the German VAT Act by coercive means in accordance with secs 328 ff. of the German Fiscal Code, in particular by imposing a penalty payment.

The law was published in the Federal Law Gazette on 22.07.2016. The aforementioned amendments will enter into force on 01.01.2017.

3. Third Order as regards the amendment of taxation regulations

Sec 10 para 1 sentence 1 no 2 letter b of the German VAT Implementation Code: With a view to harmonizing the indications to be made in the certificate of the freight forwarder (the so-called *Spediteurbescheinigung*) for export and intra-Community supplies, the “taxable person in charge of the transport” must be indicated instead of the issuer of the certificate.

The mentioned amendment entered into force on 23.07.2016.