



VAT NEWSLETTER

Annual Tax Act 2020 (Part 9): New VAT exemption for supplies to the armed forces

40 | 2020

1 Background

The EU Commission intends to strengthen the Common Security and Defence Policy by exempting it from VAT (see KMLZ Newsletter 22/2019). By means of the Annual Tax Act 2020, Art. 151 para. 1 letters ba and bb of the VAT Directive will be implemented into national law and the existing tax exemptions for NATO troops will be supplemented by two further standards in favour of the armed forces of EU Member States.

2 VAT exemption standards

Sec. 4 no. 7 letter e of the German VAT Act (draft) exempts supplies of goods and services to the armed forces of another EU Member State stationed in Germany. By contrast, sec. 4 no. 7 letter f of the German VAT Act (draft) exempts supplies of goods and services to the armed forces of another Member State, which are not stationed in their home country. In both cases, the troops must operate within the framework of the Common Security and Defence Policy. The VAT exemption applies to supplies intended for the use of or consumption by the armed forces, civilian staff accompanying them or the supply of messes and canteens. It is noteworthy that supplies rendered to the armed forces of the Member State in which the supplying taxable person is established are not exempt, either domestically or abroad.



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The two standards in sec. 4 no. 7 letters e and f of the German VAT Act (draft) are basically modelled on the two circumstances for exemptions for NATO troops in sec. 4 no. 7 letters a and b of the German VAT Act. This consistency is intended by the legislator and is also reflected in the fact that sentences 2, 3 and 5 of sec. 4 no. 7 of the German VAT Act will be editorially amended and letter f will be added in each case.

3 Entry into force

Pursuant to Art. 11 of the Annual Tax Act (draft) 2020, the VAT exemptions contained in sec 4 no. 7 letter e and f of the German VAT Act (draft) will only enter into force on 1 July 2022 – in accordance with the amended EU VAT Directive.

4 Opinion

The scope of the new VAT exemptions will, for the time being, be very limited. The activities of the armed forces of the EU Member States, within the framework of the Common Security and Defence Policy, are currently still very limited. With the implementation of the VAT exemption, the EU Commission is making a political statement - internally to those who doubt the seriousness of the common defence effort, and externally to NATO, the importance of which is increasingly in decline.