



Increase of turnover limits: Xmas present for small businesses

1 Small business limit increased to 22,000 EUR

The Third Bureaucracy Relief Act recently passed by the German Bundestag and Bundesrat succinctly states: "In sec 19 para 1 sentence 1 of the German VAT Act, the "EUR 17,500" shall be replaced by "EUR 22,000". However, this seemingly small change will have a significant effect on many taxable persons. Even though the amendment will not come into force until 1 January 2020, (small) taxable persons can already benefit from it in 2019.

2 The regulation at a glance

Taxable persons, who are established in Germany or in the territories referred to in sec 1 para 3 of the German VAT Act, will not be subject to VAT in accordance with sec 19 para 1 sentence 1 of the German VAT Act (sec 19 para 1 sentence 1 of the German VAT Act: "VAT due ... shall not be levied") where the total turnover, plus the VAT payable thereon

- did not exceed EUR 17,500 in the previous calendar year (as from 01.01.2020: EUR 22,000), and
- is not expected to exceed EUR 50,000 in the current calendar year.

Small businesses are not entitled to deduct input VAT (sec 19 para 1 sentence 4 of the German VAT Act) and are otherwise largely treated as private individuals.



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3 Interaction of two turnover limits

First of all, it is important that the two turnover limits are understood as being gross limits. According to sec 19 para 1 sentence 1 of the German VAT Act, the turnover "plus the VAT payable thereon" is decisive (section 19.1 para 2 sentence 3 of the German VAT Circular).

Further, it should be noted that the inflow of gross remuneration is important when it comes to examining the turnover limits. Section 19.1 para 2 sentence 2 of the German VAT Circular refers here to a calculation based on remuneration received (so-called "actual taxation"). It is not decisive when the supplies were actually rendered.

It is also important that both limits are not exceeded. If one of the two limits is exceeded, the small business regulation will not apply. Whether a taxable person is to be treated as a small business or a regular taxable person must be known at the beginning of each year. This is because small businesses are not permitted to issue invoices showing VAT. Very diligent taxable persons will therefore check on New Year's morning whether they have exceeded the turnover limit, now being EUR 22,000, during the previous year. If this is not the case, they will look at the year that has just begun and consider whether their turnover will exceed the limit of EUR 50,000. This is a forecast and therefore naturally contains an element of uncertainty. If neither of the two limits is exceeded, the taxable person will be deemed to be a small business. Now he must consider whether he wants to waive the small business regulation, if necessary (option, sec 19 para 2 of the German VAT Act). These are difficult questions for a New Year's morning...

4 Entry into force

According to Article 16 para 1 of the Third Bureaucracy Relief Act, the new regulation will enter into force on 01.01.2020. On this day, the limit for the previous year's turnover will therefore be increased from EUR 17,500 to EUR 22,000. On New Year's morning in 2020, the taxable person can look back at the previous year (2019) and check whether his turnover has exceeded the EUR 22,000 threshold.

5 Christmas present

So the law casts its shadow ahead. As a result, taxable persons will already be able to break the EUR 17,500 threshold in 2019 and still be busily writing invoices. In doing so, they must now keep an eye on the new EUR 22,000 threshold, which must not be exceeded. Otherwise, they will lose their status as a small business as from 2020. Assuming customers pay their invoices before Christmas, the legislator's Christmas present to small businesses will be delivered on time.

6 Outlook for the year 2025

On 08.11.2019 the Finance Ministers of the EU Member States (ECOFIN) agreed to simplify the regulations applying to small businesses (2018/0006(CNS)). The current system provides for the small business regulation to only be applicable to domestic companies. The reform is designed to allow small businesses established in other Member States to benefit from a VAT exemption. A complicated system will be set up for this purpose. For the national VAT exemption, an EU-wide annual turnover limit of net EUR 85,000 is planned. The national VAT exemption must be opened for small businesses established in other EU Member States up to an EU-wide annual net turnover of EUR 100,000. This will require the recording and control of EU-wide turnover in the country of residence, as well as an information system still to be created.