VAT'S UP
VAT NEWSLETTER

Annual Tax Act 2024: The new small business regulation in an international context

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1 New regulations for small businesses were finally adopted in the Annual Tax Act 2024

The small business regulation has, to date, been limited to domestic business in accordance with § 19 of the German VAT Act (UStG). Therefore, even comparatively small companies have had to deal with complex VAT issues and questions abroad when operating internationally. In order to promote international competition, Art. 282 et seq. of the EU VAT Directive was revised in 2020 – the changes are to be implemented by the EU member states by 1 January 2025. In Germany, this is being done via the revised sec. 19 UStG. In addition, the newly added § 19a UStG introduces a reporting requirement for small business regulations applied in other EU countries.

2 Previous regulation

Until now, VAT has not been levied on domestic supplies within Germany by companies based in the country, provided that the previous year's supplies did not exceed EUR 22,000 and that the total supplies for the current year are not expected to exceed the amount of EUR 50,000. These are gross limits. Accordingly, there is no right to claim input VAT deduction.

3 Small businesses with place of supply in Germany - new regulation

As of 1 January 2025, the thresholds for the previous year's turnover will increase to EUR 25,000 and for the current year's total turnover to EUR 100,000. These are net limits. In addition, VAT will no longer be waived, but rather the turnover will be VAT exempt (without the right to deduct input VAT). Caution is advised: While until 31 December 2024, the focus will remain on an expected annual turnover, with consequences only arising in the following year if this is exceeded, from 1 January 2025, businesses will immediately fall outside the small business regulation if the turnover limit is exceeded. Further supplies are then subject to VAT in the current year.

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A further innovation is that businesses based in the EU will now also be able to make use of the small business regulation in Germany if their turnover in the EU did not exceed EUR 100,000 in the previous year and the total turnover for the current year does not exceed EUR 100,000 either. Likewise, a small business ID (with Annex "EX") of the member state must be provided. This is being introduced as part of the EU small business regulation.

4 Small businesses with supplies in other EU countries - thresholds and reporting obligations

If a German business makes use of a small business regulation in another EU member state, they must participate in the registration procedure in accordance with sec. 19a UStG and receive a small business identification number from the German Federal Central Tax Office (BZSt). For this purpose

- participation in the registration procedure must be applied for via the online portal at the BZSt
- the (double) EUR 100,000 turnover limit must not be exceeded in the Community territory
- the requirements of the respective Member State for the small business regulation must be fulfilled
- the business is not registered in any other Member State for the small business regulation

The turnover data must be reported to the BZSt on a quarterly basis. If the EUR 100,000 limit is exceeded in the current calendar year, the BZSt must be informed within 15 working days and the EU small business regulation can no longer be applied. The two small business regulations exist in parallel. If the domestic German supplies do not exceed the amount of EUR 100,000, the domestic small business regulation can still be applied. The small business must then report its EU supplies using either the standard tax assessment procedure or the OSS procedure.

In addition to checking the EUR 100,000 threshold for potential application of the EU small business regulation, businesses must also keep an eye on national thresholds. The national thresholds vary between the EU Member States and are not set uniformly. In addition, individual EU Member States set different thresholds for different sectors or reportedly do not transpose the EU small business rule into national law. If the national thresholds are exceeded, the small business rule can still be applied within the EU, but not in the country where the turnover threshold is exceeded.

5 Small business invoicing

From 1 January 2025, small businesses must include their small business-ID and a reference to the VAT exemption for small businesses, in accordance with sec. 19 UStG, on their invoices. Small businesses are not obliged to issue e-invoices. However, they are obliged to be able to receive e-invoices. The problem is that it is not possible to check small business-IDs, as it is currently possible for "normal" VAT identification numbers, via the BZSt or VIES. For example, recipients of services from other EU countries cannot determine whether the reverse charge procedure must be applied or whether the small business rule applies.

6 Conclusion

Small businesses should check whether it makes sense to apply the new EU small business regulation. On the one hand, VAT registrations and the corresponding administrative effort can be reduced. However, the non-uniform regulations and thresholds within the EU increase complexity. New monitoring processes must be implemented in order to constantly review national thresholds, in addition to international thresholds. If individual thresholds are exceeded, there will be a patchwork for the businesses concerned - in some countries the standard tax assessment procedure or the OSS procedure will be applied, in others the small business regulation. Only time will tell whether the constant review of threshold values, the correct VAT assessment for each country, the technical adaptation of systems and the administrative effort these all require are in proportion to the value of any minor turnover earned in other EU countries and the reduced need for registrations in these other EU countries.

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