



Federal Ministry of Finance letter on VAT treatment of vouchers

1 Background

As of 01.01.2019, sec. 3 para 13 to 15 German VAT Act has, for the first time, provided a legal regulation on the VAT treatment of vouchers. Almost two years later (and after a first draft of 18.12.2019), the Federal Ministry of Finance finally published a letter with respect to the new legal provision on 02.11.2020. This letter serves to add sec. 3.17 to the German VAT Circular which sets out the tax authorities' view on the definition of a voucher, the distinction between single-purpose and multi-purpose vouchers and their legal consequences (particularly in distribution chains). The regulation is applicable retroactively as of 01.01.2019. However, a (not further specified) non-objection regulation applies until 02.02.2021.

2 Types of vouchers

Payment instruments are only considered as vouchers within the meaning of the German VAT Act if there is an obligation to accept them as consideration for a supply. Vouchers, within the meaning of the German VAT Act, are to be distinguished from discount instruments (for which sec. 17.2 para. 4 German VAT Circular applies), which do not confer the right to actually receive supplies, as well as from admission or travel tickets. Payment instruments, which can be returned, without preconditions, in exchange for the amount paid for them, are not considered to be vouchers either. How the vouchers are issued (e.g. on paper, by plastic card or electronically) is not decisive. However, according to the German VAT Act, the goods or services to be supplied or the supplier must be indicated on the voucher or in related documentation. The Federal Ministry of Finance mentions this only in connection with the distinction between single-purpose and multi-purpose vouchers.



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A distinction must be made between single-purpose and multi-purpose vouchers as they entail different legal consequences. A voucher is considered a single-purpose voucher if the place of supply and the VAT due are definite at the time of issue or transfer of the voucher. As far as the VAT status of the recipient, as a taxable or non-taxable person, is relevant for determining the place of supply, this must also be definite at the time of issue or transfer. If the place of supply or the VAT due is not certain, the voucher is to be considered as a multi-purpose voucher. According to the Federal Ministry of Finance's letter, a single-purpose voucher also requires that the nature of the supply and the supplier are indicated on the voucher. This, however, exceeds the wording of the German VAT Act.

Beyond the wording of the German VAT Act, the issuer "shall" also label the voucher as single-purpose or multi-purpose voucher. Issuers and subsequent taxable persons in a supply chain may rely on this classification provided they are not acting in bad faith.

3 Legal consequences

For single-purpose vouchers, VAT arises at the time of issue and each time the voucher is transferred (but not when it is redeemed). According to the Federal Ministry of Finance, the place of supply is to be determined according to sec. 3 para. 7 sentence 1 or sec. 3a German VAT Act and the taxable amount according to the general provisions.

In the case of multi-purpose vouchers, the issue and transfer of the voucher are irrelevant for VAT purposes. VAT only arises at the moment of redemption. According to the Federal Ministry of Finance, the general provisions apply for determining the place of supply and the taxable amount.

The Federal Ministry of Finance explains its view of the legal situation for both types of vouchers, in particular for distribution chains involving voucher traders, using a number of examples. The parties involved in such distribution chains should examine whether the Federal Ministry of Finance commented on their case. It should also be examined whether a more advantageous treatment is possible by structuring the facts of the case. For example, in contrast to a single-purpose voucher, the (final) non-redemption of a multi-purpose voucher is to the advantage of the issuer. In the case of a multi-purpose voucher, the issuer then is not required to pay VAT on the amount received. In the case of final non-redemption of a single-purpose voucher, however, a reduction of the taxable amount and the VAT, according to sec. 17 German VAT Act, shall not be possible (unless the payment for the voucher is refunded). Whether this view is correct remains to be seen.

4 Recommendations for the practice

At least as soon as the regular VAT rate of 19% is once more applicable as of 01.01.2021, the issuance of multi-purpose vouchers will be more advantageous for the issuer than single-purpose vouchers. VAT will arise later or perhaps not at all. Taxable persons should therefore, if possible, structure their vouchers as multi-purpose vouchers. Taxable persons could, for example, include supplies subject to the reduced VAT rate as possible supplies to be received by means of the voucher. In this case, labelling the voucher as a multi-purpose voucher is recommended. Until 01.01.2021, however, the issuance of single-purpose vouchers may be advantageous in order to secure the VAT rate of 16%.