



Federal Ministry of Finance letter on online education and other events only results in a half-step backwards

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1 Background

Since 1 July 2024, providers of digital educational services have been required to comply with the much criticized Federal Ministry of Finance (BMF) letter dated 29 April 2024, according to which pre-produced content, such as video courses, apps, learning platforms, etc. with no or only minimal human elements are excluded from VAT exemption. The same applies if live content is recorded and can be viewed at a later time (see KMLZ VAT Newsletter 24 | 2024 and 49 | 2024). After more than a year, the BMF has now responded to the criticism with the publication of a new letter dated 8 August 2025.

2 The BMF's letter dated 8 August 2025

The BMF's letter dated 29 April 2024 is now repealed and has been replaced by the content of the new BMF letter (paras. 2, 15). Apart from editorial changes, the provisions on pre-produced content (not exempt as electronic services, paras. 3-5), live streaming and hybrid offerings (exempt as other services, paras. 6-8) and service commissions (paras. 9-11) remain unchanged. The VAT exemptions under sec. 4 no. 14 (health), no. 20 letters a and b (art and culture), no. 21 (educational services) and the reduced VAT rate under sec. 12 para 2 no. 7 letter a of the German VAT Act (admission rights) apply only to live and hybrid events. Recorded or pre-produced content is excluded from the VAT exemption. In this respect, everything remains as before.

The complete omission of the most controversial provisions under sub-section 12(a) ('Uniform service of a special type') and (b) ('Independent services') of the previous Federal Ministry of Finance letter is particularly noteworthy. According to this, a uniform service of a special kind (*sui generis*) was deemed to exist if, in addition to live teaching (with or without the



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possibility of interaction), a recording was also offered. The total service would then be taxable as a whole and subject to the standard VAT rate (lit. a)). If, on the other hand, a separate fee was agreed for the recording or a surcharge was paid, this would constitute independent main services that would have to be assessed separately (lit. b). These explanations were incorrect in terms of content. The BMF has now obviously recognised this and deleted the passages. According to the new paragraph 12, the general rules on the uniformity of services must be used to assess whether an entrepreneur is providing a single service or several independent services. This is no longer determined on the basis of the remuneration agreement, but on the basis of the nature of the transaction, from the perspective of the average consumer.

The letter applies to all open cases. However, until the end of 2025, providers may refer to the BMF's letter dated 29 April 2024. The legal consequences then apply equally to input VAT deductions.

3 Consequences for the practice

On the positive side, the combination of live teaching and recordings can now, once again, potentially be fully VAT exempt under sec. 4 no. 21 and no. 22 of the German VAT Act. It can no longer be assumed that there is no alternative to a wholly VAT liable service of a special nature. In future, assessments will be made on a case-by-case basis. This reversal is long overdue, but the BMF has only managed to achieve it with some concessions. Greater flexibility, in terms of the uniformity of the service and the nature of the supply, will give the tax authorities more scope for creativity. This has already been evident in audit practice since the BMF issued its letter dated 29 April 2024. All providers of online events must now check whether their services are considered uniform services and whether they are wholly or partially exempt from VAT.

The new view on service combinations has a negative impact on education providers who are liable to pay VAT and have divided their fees. They believed they had legal certainty and referred to sub-section 12(b) of the previous version. Other education providers, on the other hand, welcomed full VAT liability under sub-section 12(a) of the previous version with a view to input VAT deduction rights. In view of the input VAT that is now not deductible, corrections for investments in the past, liability for damages to landlords, etc., these providers could now be the big losers, in terms of the new BMF letter. In any case, there is again a great need for action on their part. They must reassess their courses as a whole and, in many cases, probably reorganize them.

The updated letter also remains silent on the question of why apps and learning platforms, insofar as they constitute electronic services, cannot benefit from a VAT exemption. In such cases, it must be examined on a case-by-case basis whether a VAT exemption, for example for educational or medical treatment services, can be applied. The scope of application of the Distance Learning Protection Act has recently been significantly expanded (see KMLZ VAT Newsletter 23 | 2025).

The new regulations are to apply to all transactions from 1 January 2026, at the latest. These transitional provisions are insufficient. For services that have already commenced and will only be deemed to have been performed for VAT purposes next year, when they are completed (e.g. long-term training courses), the transitional provision will have retroactive effect. This applies, in particular, to courses with split remuneration in accordance with sub-section 12(b) of the previous version of the letter.