



VAT NEWSLETTER

## Federal Fiscal Court: Activities of tariff optimizers are VAT-exempt

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### 1 Background

The activity of an insurance broker is exempt from VAT under sec. 4 no. 11 of the German VAT Act. However, the law does not specify exactly what this includes. Consequently, there are numerous individual Fiscal Court decisions on which supplies are typical for an insurance broker. Now there is another decision – highly welcome for the industry. The Federal Fiscal Court ruled on 8 July 2025 (case no. XI R 7/23) that the activity of a tariff optimizer is also exempt from VAT.

### 2 Facts of the case

The claimant and respondent in revision, a GmbH, offers so-called tariff optimizations for privately insured persons. It acquires its customers mainly through its own website and by purchasing lead datasets from web portal operators. Once it finds an interested party, it researches a cheaper tariff, primarily with the insurance company where the person is already privately insured. If the claimant finds a cheaper or better tariff, it also handles the contract adjustment. Thus, customers remain with their current insurer but benefit from better conditions. The remuneration is paid only in the case of success and is based on the savings achieved. After an external audit, the tax office took the view that this activity was not VAT-exempt but rather a taxable consulting service. The claimant appealed. The Fiscal Court Hamburg upheld the claim. The claimant's activity was a typical insurance broker activity. The tax office's appeal was unsuccessful. The Federal Fiscal Court confirmed the decision of the Fiscal Court.



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### 3 Decision of the Federal Fiscal Court

The Federal Fiscal Court first clarified the requirements for VAT exemption under sec. 4 no. 11 of the German VAT Act and then emphasized that the Fiscal Court correctly applied these principles:

- **Connection to both contracting parties and intermediary function:** The taxable person must be in contact with both the insurer and the insured and assume essential elements of insurance intermediation. This includes finding customers and bringing them together, with the insurer, in the context of a specific transaction. The argument that a “bringing together” cannot exist if a contractual relationship already exists was rejected by the court: the exemption only requires bringing together, not necessarily for the first time.
- **Tariff optimization as an intermediary activity:** A tariff optimizer is connected to both parties and causes them to come together again for an (amendment) contract. Its work – researching new tariff options and handling the tariff change – is the essential cause of the contract modification. Success-based remuneration is an indication of broker-type activity.
- **Mutual interest and portfolio maintenance:** The claimant acts not only in the customer's interest but also in the insurer's interest, as tariff optimizations promote the retention of existing customers. Otherwise, a switch to another provider might occur. The court also refers to the view of the Ministry of Finance in sec. 4.11.1 para. 3 of the Administrative VAT Guidelines, according to which portfolio maintenance services are also typical for insurance brokers.
- **Neutrality in competition:** Intermediation of a new contract with another insurer is undisputedly VAT-exempt. If tariff optimization were treated differently, a competitive disadvantage would arise: the customer could only benefit from the exemption in the case of switching insurers. The supply of a tariff optimizer would, however, mean higher costs for the customer, as private individuals have no input VAT deduction. The principle of VAT neutrality therefore requires uniform treatment of these comparable transactions.

### 4 Assessment

The decision is consistent. It clarifies and at the same time expands the concept of intermediary supplies under sec. 4 no. 11 of the German VAT Act: the intermediation of contract modifications can also be VAT-exempt, regardless of whether it is considered part of portfolio maintenance (sec. 4.11.1 para. 3 of the Administrative VAT Guidelines) or an independent supply. It is also noteworthy that the Federal Fiscal Court, despite its limited scope of review as a court of revision with regard to the applied legal principles, stated that it agrees with the Fiscal Court's assessment “on the merits”. This statement underlines the significance of the decision.

Beyond this case, it is also worth looking at the final judgment of the Fiscal Court Munich of 2 July 2025 (case no. 3 K 1932/21). For the first time, it was decided that hidden intermediation under sec. 4 no. 8 lit. a to d of the German VAT Act can also be VAT-exempt. This means that the intermediary does not necessarily have to be recognizable as such to both parties externally. In particular, it is not a requirement that the customer actually knows that they were intermediated. Furthermore, the court again clarified that intermediation can also take place online. For the intermediary supply, only contact is required, which can of course also occur online. Finally, the decision addresses the distinction between general advertising and intermediation, as both ultimately serve to conclude contracts. The decisive factor here is the intention of targeted addressing for the purpose of contract modification.