



VAT reduction - you have to consider this from 01.07.2020!

Dear client,
Dear client,

the Corona crisis is putting citizens and businesses to the test. The economic impact - this is already becoming apparent - is enormous and difficult to assess in detail. Politicians have reacted early with immediate measures and support programmes for ailing companies. In the tax field, too, extensive relief measures have already been decided, such as the deferral of tax payments and the reduction of advance payments.

In order to revive the economy after the corona shock of the last few months, the German government adopted a comprehensive fiscal stimulus package on June 12, 2020. A central part of these measures is the temporary reduction of the statutory value-added tax within the framework of the standard tax rate from currently 19 % to 16 % and the reduced tax rate from 7 % to 5 %. In principle, you as an entrepreneur can choose whether to pass on the savings to customers or increase your earnings. However, the change will pose a challenge for your company's bookkeeping and auditing departments, if only because of the extremely short lead time for the changeover.

In the following we have compiled the most important aspects of VAT reduction for you.

Table of contents

1. Which tax rate applies when?.....	1
2. How do you assign the tax rates correctly in terms of time ?.....	2
3. Which special cases have to be considered?..	3
4. Must the tax rate reduction be passed on to customers?	4
5. Checklist for implementing the tax rate change	5
6. Conclusion	5

1. Which tax rate applies when?

From 01.07.2020 to 31.12.2020, i.e. for six months, the standard VAT rate is to be reduced from the current 19 % to 16 %. The same is to apply to the reduced tax rate, which is to be reduced from the current 7 % to 5 %. The reduced tax rate will be applied to a wide range of basic foodstuffs, hygiene articles, press and publishing products. After December 31, 2020, the old rates of 19 % for the standard tax rate and 7 % for the reduced tax rate will probably be applied again. Adoption of the law on the measures of the



economic stimulus package is expected at the end of June.

The Federal Ministry of Finance (BMF) has already published a draft of an application letter with possible simplification regulations. However, this is currently still being coordinated with the supreme tax authorities of the federal states and is not yet applicable.

The reduction of VAT rates is relevant both for the creation of invoices within the company and for the verification of incoming invoices. If the tax rate shown on an invoice is too high, this higher tax rate is also due for payment to the tax office. However, the service recipient cannot easily deduct input tax because the tax rate in the invoice is incorrect. If necessary, the invoice must then be corrected to the lower tax rate.

There are currently no general simplification rules that allow full input tax deduction even in the case of incorrect, excessive tax reporting. In its draft letter of application, the Federal Ministry of Finance provides for this, if necessary, for partial charges paid before 1 July 2020 for services which are not carried out until after 30 June 2020. In this case, no correction of the invoice for partial payments with the old tax rates should be necessary if the new tax rates of 16 % or 5 % are applied in a final invoice. The final regulation remains to be seen.

Reduction of VAT on restaurant and catering services

Under the first Corona Tax Assistance Act, which was passed on 5 June 2020, the tax rate for meals in the context of so-called restaurant and catering services was temporarily reduced from currently 19 % to 7 %. The services affected by the reduction include not only food delivery during restaurant or snack bar visits, but also services provided by food retailers and by catering companies, bakeries and butchers when ready-to-eat meals are delivered. The reduction of the tax rate applies from 01.07.2020 to 30.06.2021.

The further reduction of the reduced tax rate from 7% to 5% in the second half of 2020 will make the tax rate on restaurant and catering services even more favourable. For the period from 01.01.2021 to 30.06.2021, the rate will then increase again to 7% and from 01.07.2021 it will be 19% for meals delivered directly to the place of consumption. The supply of drinks as part of restaurant and catering services will continue to be subject to the regular VAT rate and will only be reduced from 19 % to 16 % from 01.07.2020 to 31.12.2020.

Tax rate change for restaurant and catering services	
01.07.2020 until 31.12.2020	5 % on food, 16 % on drinks
01.01.2021 until 30.06.2021	7 % on food, 19 % on beverages
from 01.07.2021	19 % on food (if consumed on the spot) and beverages

2. How do you assign the tax rates correctly in terms of time?

Basic rule: Execution of the service

The time of performance of the respective service is always decisive for the allocation of the respective tax rate. This determines the tax rate at which the turnover is to be calculated or the input tax deduction is to be made. Particularly in the case of input tax deduction, it is then also important during invoice verification to recognize whether an incoming invoice contains the applicable tax rate or must be returned to the issuer for correction. VAT law has various fictions as to when the respective service is considered to have been performed. This does not necessarily have to coincide with the time at which a delivery item is received or a service is performed. It is a legal acceptance. The time of payment or receipt of the invoice is also irrelevant for the execution of the service in the VAT sense. With regard to the time of execution of the service, the basic constellations listed below must be observed.

Deliveries

In terms of turnover tax, deliveries are all transactions that have to do with goods. In the case of a delivery of goods which is dispatched or transported, the turnover is carried out at the beginning of the dispatch or transport. Dispatch means that the goods are sent on their way to the customer with a service provider. In the case of transportation, the seller himself takes care of the transport to the customer. In the case of deliveries of work, the delivery item only comes into existence as a result of corresponding work (e.g. by setting up a machine on site at the customer). In this case, the power of disposal is usually only transferred when the delivery item has been created. Only then is the delivery considered to be executed.

Example 1:

A has already ordered a new company car from car dealer B on 03.02.2020 for 50.000 € + 19 % sales tax (9.500 €). The delivery date was actually planned for 01.05.2020. Due to the Corona crisis the delivery is

delayed, however, on 02.07.2020 B finally gets the car from the wholesaler and brings it to A the same day.

Solution:

Since delivery to A did not begin until 02.07.2020, the tax rate of 16 % applies. Accordingly, A only has to pay € 8,000 instead of € 9,500 in sales tax. B also only has to show 16 % VAT on the invoice. (On the question of when, if applicable, there is no obligation for the seller to pass on the lower tax rate, see 4.

the invoice (not the date of issue) as a basis for invoice verification. In this way, it can be assessed whether the value-added tax shown is too high. If the value-added tax is too high, the customer is not entitled to deduct input tax (not even partially to the amount applicable). If necessary, the exhibitor must arrange for the invoice to be amended.

Other services

For VAT purposes, other services are defined as everything that is not a delivery of goods. These are therefore services for which the cost of goods is only minor. Other services are generally considered to be performed at the time of completion. If an other service is divided into delimitable partial services, the other service is deemed to be performed upon completion of the individual partial service.

Example 2:

The A-GmbH provides IT services. For company B, support is provided in setting up an online shop. Here, A-GmbH provides programming work within the framework of a total of three sub-steps, each of which contains different topics. For each sub-step 5,000 € +19% sales tax (950 €) are agreed upon. Sub-step 1 is completed on 15.06.2020, sub-steps 2 and 3 will follow on 02.07.2020.

Solution:

Accrualable partial services were agreed. The respective completion date of the individual partial services is decisive for the applicable VAT rate. This means that the VAT rate of 19 % still applies to partial performance 1, as the performance was carried out before 01.07.2020. Partial services 2 and 3 were only carried out after 30.06.2020, which is why the tax rate of 16 % applies to them.

In the context of the change in tax rates, it may make sense for simpler processing to subsequently divide contracts for uniform benefits into partial benefits, if these can actually be individually deferred. The draft of the BMF application letter contains specifications for corresponding contract changes: Accordingly, the relevant partial service must be completed before 01.07.2020 and the partial services must have been agreed before 01.07.2020. Corresponding changes to the contract must also have been made effectively before 01.07.2020.

Hint:

With regard to the performance of the respective service, it is advisable to use the service date shown on

Special case construction work

Particularly in the case of construction services, the problem often arises in practice that partial services are not clearly delimited from one another. Construction works in this context are work on buildings or other fixed installations which changes their nature. Although the services may be economically delimitable, the concrete agreement of partial services is often missing. In this case, the construction work is generally deemed to have been completed upon acceptance. Thus, if the acceptance of a construction work falls in the period between 01.07.2020 and 31.12.2020 and no partial services have been agreed upon, the tax rate of 16% applies uniformly.

Hint:

If construction services are provided to customers who are not entitled to deduct input tax, it makes sense to postpone the acceptance of the service to the period between 01.07.2020 and 31.12.2020, if this can be demonstrated on the basis of the actual circumstances. In this case, the recipient would then be in a better position with only 16% VAT burden. In the event of a decrease after 31.12.2020, he would again be charged 19 % value added tax.

3. Which special cases have to be considered?

Down payments/advance payments

Down payments or advance payments do not play a role in the application of the respective tax rate, since it is always only important when the corresponding service was performed.

Example 3:

Entrepreneur A orders new office inventory in May 2020 for 10,000 € + 19 % value added tax (1,900 €). He pays a deposit of 4,000 € + 19 % VAT (760 €) in May 2020 and receives an invoice from the supplier. The inventory will be delivered on 05.07.2020.

Solution:

The output will be executed after 30.06.2020, therefore the total output is subject to a tax rate of only 16 % (1,600 €). The VAT in the down payment invoice was

therefore €120 too high and has to be corrected in the final invoice.

According to the draft of the application letter of the BMF, however, it should not be objectionable if the reduced tax rates of 16% or 5% are already applied in advance payments in the period before 01.07.2020 for services which are only provided after 30.06.2020. However, this simplification rule is not yet in force.

Continuous services and contracts as invoices

Permanent services are services (deliveries or other services) extending over a longer period of time, for example rental and lease contracts, maintenance contracts, telecommunication contracts, license transfers, delivery subscriptions. Permanent services are deemed to be performed when the service has been rendered. The respective billing periods define the delimitable partial services. In the case of continuous services, the contract can also be an invoice at the same time, if it contains the mandatory details for sales tax purposes. Any information missing from the contract must be included in other documents to which reference must be made in the contract. However, an invoice must explicitly state the applicable tax rate.

In this case, the corresponding contracts may have to be adjusted or separate invoices may have to be issued. Otherwise, this can lead to problems with the recipient of the service with the input tax deduction, as no proper invoice can be presented.

Example 4:

The rent for company A's premises is invoiced monthly in advance. In the contract, all VAT invoicing requirements are fulfilled, the VAT is stated at 19 %.

Solution:

From July 2020, the rent will be charged with 16 % value added tax. In order for a proper invoice for input tax deduction to be available, either the rental agreement for the period 01.07.2020 to 31.12.2020 must be adjusted to 16 % or a separate invoice must be issued.

Hint:

It is advisable to take stock here of which input services have already been invoiced at 19% in the context of annual (or similar) permanent services (without these being partial services). Such invoices should then be corrected. The same applies to any output services that are not partial services.

Other individual cases

- **Membership fees** for the entire calendar year 2020 are to be assessed uniformly at the tax rate of 16 %. In the case of amounts already prepaid at 19 %, a correction is to be made if necessary.
- **The provision of company cars to employees for private use** only triggers taxation at the reduced tax rate of 16% in the period from 01.07.2020 to 31.12.2020.
- In the case of **annual tickets** (e.g. services, admission entitlements), the service is only provided at the end of the term. Accordingly, annual tickets for 2020 are to be assessed at the tax rate of 16 % or 5 %.
- The **exchange of an item** means that the original service is reversed. If the replacement item is delivered after 30.06.2020, the lower tax rate applies to it.
- In the case of **vouchers**, a distinction must be made between single-purpose vouchers and multipurpose vouchers.
 - In the case of a **single-purpose voucher**, the service and its tax rate are already fixed when it is issued, and redemption is no longer subject to VAT. The sales tax already arises when the voucher is sold. If the voucher is sold before 01.07.2020, a tax rate of 19 % or 7 % is to be taken into account, and 16 % or 5 % for sales after 30.06.2020.
 - In the case of a **multi-purpose voucher**, the benefit and in particular the tax rate are not yet fixed, as the voucher can be used for different goods. In this respect, the sale of the voucher is only an exchange for another means of payment; no VAT is charged. Only when the voucher is redeemed is the corresponding service performed. It therefore depends on whether the redemption takes place after 30.06.2020 or before 01.07.2020.

4. Must the tax rate reduction be passed on to customers?

Contracts often agree on net prices, on which the sales tax is then calculated. At least in the case of long-term contracts that were concluded more than four months before the change in tax rate, the customer is entitled to compensation if he has already made advance payments at the old, higher tax rate. However, this right to compensation can also be excluded by contract. In case of doubt, the provisions of the respective contract shall apply. In the case of simple shop sales after 30.06.2020 or services based on contracts concluded after 30.06.2020, there is no obligation to pass on the savings from the lower tax rates to end customers by reducing gross prices.

From a practical point of view, the tax reduction could be passed on to the customers, for example by means of a general rebate. This might be easier to implement in a company than changing price lists or entering new prices in the merchandise management systems.

5. Checklist for implementing the tax rate change

You should take the following into account when implementing the tax rate change:

- Create new tax codes in the company systems (for example, in the accounting program, ERP system, merchandise management system).
- In addition, new balance sheet accounts must be created for the correct differentiation of sales tax/input tax. It is not recommended that you simply overwrite the previous tax key for 19% or 7% for reasons of clarity.
- Adjust the settings for the electronic transmission of advance return for tax on sales/purchases.
- Company POS systems must also be adapted to the new tax rates. Cash documents in particular must be able to represent the new tax rates. You must also remember that the readjustment takes place from 01.01.2021!
- Train the staff involved in invoice approvals.

Hint:

All changes in the operational IT must be documented in a comprehensible way and presented in a procedural documentation. If you require information on proper procedural documentation, please contact us.

Other time aspects

The tax rate changes will be relevant for the first time for VAT advance returns for July 2020. These must be submitted by 10.08.2020. If there is a permanent extension of the deadline, 10.09.2020 is decisive. Particularly if conversion problems become apparent, for example with regard to IT or changes to invoices, consideration may be given to applying to the tax office for a permanent extension during the year. This can always be done by the time the respective advance VAT return is submitted, i.e. by the 10th of the following month. However, a special advance payment of 1/11 of the VAT paid in the previous year must then also be paid.

6. Conclusion

The reduction of VAT rates leads to some effort, which should be addressed at an early stage. This is because subsequent changes due to incorrect invoices are often even more costly than structured adjustments. In addition, the reduction in tax rates certainly offers leeway in pricing, especially in the retail business. If you have any questions about the economic stimulus package - especially about the reduction in VAT - please do not hesitate to contact us. Together we will find the best way for you.

If you need assistance or have any other questions on these topics, please do not hesitate to contact our VAT expert. **Rolf Hackspiel, Dipl. Fin.-W. (FH), tax consultant and managing director of Acconsis will be happy to advise you.**

Service telephone: + 49 89 547143
E-Mail: r.hackspiel@acconsis.de

Sincerely yours,
ACCONSIS Team