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DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
VAT and other turnover taxes

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VAT in the European Community

Application in the Member States

**Facts for use by
administrations, traders
information networks, etc.**

Note

This document collates a range of basic information on the application of VAT arrangements in the Member States which has been obtained from the tax authorities concerned.

The sole purpose of distributing details of national provisions is to create a work tool. In no way does this document reflect the views of the Commission of the European Communities. Nor does it signify approval of the relevant legislation.

GERMANY

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GENERAL INFORMATION

1. IF A FOREIGN TRADER WANTS TO OBTAIN INFORMATION ABOUT YOUR VAT SYSTEM, WHOM SHOULD HE CONTACT? (DETAILS OF THE DEPARTMENT, INCLUDING ADDRESS, TELEPHONE AND FAX, E-MAIL)

Bundesministerium der Finanzen
Referat für Bürgerangelegenheiten
11016 Berlin
Fax: (004930) 18 682 – 4420
E-mail: buengerreferat@bmf.bund.de

2. WHAT IS THE ADDRESS OF THE NATIONAL TAX ADMINISTRATION WEBSITE? WHICH CATEGORIES OF INFORMATION ON VAT ARE AVAILABLE ON THAT WEBSITE (GENERAL INFORMATION, LEGISLATION, CONTACT POINTS, FORMS, ETC.)? IN WHICH LANGUAGE(S) ARE THEY AVAILABLE?

General information on Germany's VAT regulations can be consulted on the website of the Bundesministerium der Finanzen (www.bundesfinanzministerium.de). More detailed information and a number of forms are available on the website of the Bundeszentralamt für Steuern (www.bzst.de). The information is available in German only.

3. WHERE IS IT POSSIBLE TO FIND NATIONAL VAT LEGISLATION AND REGULATIONS? IN WHICH LANGUAGE(S) ARE THEY AVAILABLE?

German VAT regulations are laid down in the Turnover Tax Act (UStG), the Turnover Tax Implementing Regulation (UStDV) and the Turnover Tax Guidelines (UStR). They are available only in German.

VAT REGISTRATION OF FOREIGN TRADERS

4. WHAT ARE THE CIRCUMSTANCES GOVERNING THE NEED TO BE REGISTERED FOR VAT?

Anyone supplying goods or services or making intra-Community acquisitions in the Federal Republic of Germany must be registered for VAT purposes and must declare their turnover for tax purposes.

5. WHAT ARE THE SITUATIONS WHERE REGISTRATION IS UNNECESSARY BECAUSE THE RECIPIENT OF THE GOODS OR SERVICES IS LIABLE FOR THE TAX? IN SUCH SITUATIONS, IS IT POSSIBLE TO REGISTER ON A VOLUNTARY BASIS?

Where traders who are not established in Germany provide taxable work supplies or services (excluding passenger transport services, which are subject to a separate transport tax; passenger transport by taxi or cross-border passenger transport by air, as well as admissions to trade fairs, exhibitions and conferences and the services of trade fair companies established outside Germany in connection with the organisation of fairs and exhibitions), the recipients are liable for VAT if they are traders or legal persons governed by public law. Where traders who are not established in Germany supply gas and electricity to a trader, the latter is liable for payment of the tax. Recipients have to calculate the tax on the consideration (net amount) and declare it to their local tax office. In such cases, the supplying trader does not have to register for VAT purposes if he engages solely in such transactions.

6. WHOM SHOULD A FOREIGN TRADER CONTACT TO GET REGISTERED FOR VAT? (DETAILS OF THE DEPARTMENT, INCLUDING ADDRESS, TELEPHONE AND FAX, E-MAIL)

Details of the VAT offices responsible for foreign traders can be found on the website of the Bundeszentralamt für Steuern (http://www.bzst.bund.de/003_menuue_links/004_umsatzsteuer/043_ust_in_und_ausland/index.html). Traders operating from one of the Member States listed must apply to the relevant local tax offices listed, to which individual States are assigned. Traders not operating from one of the Member States listed, but from another State, must apply to the Finanzamt Berlin Neukölln (address: Thiemannstraße 1, D-12059 Berlin). Foreign traders with an establishment in Germany must apply to their establishment's local tax office. This local tax office can be found on line at the Bundeszentralamt für Steuern (<http://bffweb1.bff-online.de/cgi-bin/bzst/gemfai.exe>) by entering the name of the locality and post code.

7. PLEASE DESCRIBE THE DETAILED PROCEDURES (INCLUDING NECESSARY DOCUMENTS) FOR ISSUING VAT IDENTIFICATION NUMBERS, SPECIFICALLY TO FOREIGN TRADERS.

Traders wishing to do business or becoming liable for VAT in Germany for the first time must apply to the relevant tax office. They will be sent a form in which they must enter their personal data and all information relating to their business. This duly completed and signed form should be returned to the tax office and traders will be issued with a VAT number by post.

VAT numbers (in Germany: VAT identification numbers can be applied for on line (www.bzst.de)).

VAT numbers can also be issued on written application to the Bundeszentralamt für Steuern, 66738 Saarlouis (Fax: 06831 456120).

Applications, for which there is no standard form, must include:

- the applicant's name and address,

- the number under which he is registered for VAT purposes with the relevant German tax office and
- the tax office competent for VAT.

Such applications can also be submitted to the local tax office where traders are registered. No distinction is made between traders established in Germany and those established elsewhere. There is no minimum period for VAT registration. Special rules apply for small traders and flat-rate farmers.

In the case of small traders, the VAT payable on turnover is waived where total turnover in the previous calendar year did not exceed EUR 17 500 and is unlikely to exceed EUR 50 000 in the current calendar year. This rule applies only to traders established in Germany.

The special rules applying to flat-rate farmers do not depend on turnover thresholds.

THRESHOLDS

8. WHICH THRESHOLD DO YOU OPERATE AS REGARDS INTRA-COMMUNITY DISTANCE SELLING UNDER ARTICLE 34 OF THE VAT DIRECTIVE (2006/112/EC)?

EUR 100 000

9. WHICH THRESHOLD DO YOU OPERATE AS REGARDS ACQUISITIONS BY NON-TAXABLE LEGAL PERSONS OR EXEMPT PERSONS UNDER THE SECOND SUBPARAGRAPH OF ARTICLE 3(2) OF THE VAT DIRECTIVE (2006/112/EC)?

EUR 12 500

APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN TRADERS NOT ESTABLISHED IN THE EU

10. WHAT ARE THE SITUATIONS IN WHICH THE APPOINTMENT OF A TAX REPRESENTATIVE IS OBLIGATORY?

The use of a tax representative is not compulsory. Use of a tax representative is confined to cases in which the person represented in Germany effects only non-taxable transactions and cannot deduct input tax. The person represented may not have his place of residence, place of business, management or a branch in Germany or in the areas referred to in Section 1(3) of the Turnover Tax Act.

Tax representatives are used in particular in the case of:

- exempted imports which are immediately followed by an intra-Community supply,

- exempted cross-border transport of goods, where a trader does not receive supplies or other services on which input tax can be deducted.

11. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?

The rules governing the appointment of a tax representative are laid down in Sections 22a to 22e of the Turnover Tax Act.

Only the following may be tax representatives:

- members of the tax and legal advisory professions,
- forwarding agents assisting with inward customs clearance or the charging of excise duty on intra-Community goods,
- other commercial operators assisting with inward customs clearance.

In principle, such forwarding agents and other commercial operators may act as tax representatives only if they are established in the Federal Republic of Germany and are not small traders within the meaning of Section 19 of the Turnover Tax Act.

12. WHAT ARE THE RIGHTS AND OBLIGATIONS OF A TAX REPRESENTATIVE?

Tax representatives have to fulfil the VAT obligations of all the foreign traders they represent, as if they were their own, with their local tax offices under a special tax number. Tax representatives have the same rights as the traders they represent and may, for example, make the relevant applications in Germany.

The following procedure has to be observed:

Persons appointed as tax representatives must be given power of attorney by the persons they represent before any exempt transactions are effected. If such power of attorney is drawn up in a language other than German, a certified translation may be requested by the tax authorities in justified cases.

Tax representatives must apply for a separate tax number and a separate VAT identification number. The separate tax number will be issued by the tax representatives' tax offices. The VAT identification number will be issued by the Bundeszentralamt für Steuern on application. This number covers all the foreign traders they represent.

Tax representatives must comply with general accounting obligations. A separate account of the consideration agreed for exempt transactions must be kept for each person represented. The names and addresses of persons represented must also be clearly identifiable in the account.

Tax representatives must submit VAT returns for each calendar year under the separate tax number. These must include all tax assessment bases relating to all the persons represented. Individual lists of transactions are not necessary. The deadlines for submission of the returns are laid down in the general tax provisions. Tax representatives must submit recapitulative statements to the Bundeszentralamt für Steuern by the tenth

day following the end of each quarter. These recapitulative statements must contain the assessment bases for all persons represented.

Invoices for the transactions undertaken by the person represented may be issued by the person represented or by the tax representative, if such a representative has been appointed. In either case, invoices must contain the following additional information:

- reference to the fact that a tax representative has been appointed;
- name and address of the tax representative,
- the VAT identification number assigned to the tax representative for these purposes.

No tax representative may be appointed where the person represented effects both exempt transactions and taxable transactions in Germany. This also applies if the person represented provides taxable work supplies or other services on which the recipient must pay VAT. No tax representative may be appointed if, within the same period, the person represented has made an admissible application for repayment of input tax or has effected intra-Community acquisitions under intra-Community triangular transactions which are taxable. This also applies where the person represented effects taxable supplies in Germany as part of intra-Community triangular transactions on which the final customer has to pay VAT.

The period of a tax representative's appointment ends when the person represented withdraws power of attorney from the tax representative or the relevant tax office refuses the appointment of the tax representative. This also applies when the person represented initially appointed a tax representative but subsequently effects taxable transactions in Germany within the assessment period or is allowed to deduct the input tax charged.

When the period of a tax representative's appointment ends, tax representatives and foreign traders must proceed as follows:

Tax representatives must inform the tax office when they cease to represent one of the persons they represent. Transactions undertaken up to the end of this period must be recorded by tax representatives in the VAT returns for the calendar year and included in the recapitulative statement for the relevant period. Tax representatives must comply with the applicable general accounting and declaration obligations from the time they are appointed until the time they cease to act as tax representatives. When the appointment of a tax representative ends, foreign traders must register under their own tax number and, where necessary, apply for their own VAT identification number.

13. WHAT ACTION CAN BE TAKEN IN THE EVENT OF FAILURE BY A TRADER IN ANOTHER COUNTRY TO DESIGNATE A TAX REPRESENTATIVE IN YOUR TERRITORY?

Since it is not compulsory to appoint a tax representative, no action can be taken as no regulations have been infringed.

14. ARE THERE SITUATIONS IN WHICH IT IS OBLIGATORY TO SET UP A BANK GUARANTEE?

A bank guarantee is not required in Germany as tax representatives can represent only traders who in principle do not have any payment obligations towards, or refund claims against, the tax authorities.

APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN TRADERS ESTABLISHED IN THE EU

15. IS IT POSSIBLE TO APPOINT A TAX REPRESENTATIVE?

No distinction is made between traders established in other Member States of the European Union and traders established in a non-EU country for the purposes of appointing tax representatives.

16. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?

See answer to question 11.

17. WHAT ARE THE RIGHTS AND OBLIGATIONS OF A TAX REPRESENTATIVE?

See answer to question 12.

18. ARE THERE SITUATIONS IN WHICH IT IS OBLIGATORY TO SET UP A BANK GUARANTEE?

See answer to question 14.

INVOICING

RULES ON INVOICING

19. WHERE CAN THE RELEVANT RULES (LAWS, REGULATIONS, INSTRUCTIONS, GUIDELINES) BE FOUND?

Turnover tax obligations in relation to invoicing are laid down in Sections 14 to 14b of the Turnover Tax Act, Sections 31 to 34 of the Turnover Tax Implementing Regulation and sections 183 to 190b of the Turnover Tax Guidelines.

ISSUE OF INVOICES

20. CASES WHERE AN INVOICE NEEDS TO BE ISSUED

In application or the authorisation given in Article 221(1) of the VAT Directive (2006/112/EC), under Section 14(2), first sentence, point 1, of the Turnover Tax Act the trader is always required to issue an invoice on effecting a taxable work supply or other supply in connection with immovable property, i.e. including supplies to non-traders.

Under Section 14(2), first sentence, point 2 of the Turnover Tax Act, the supplying trader is required to issue an invoice for a supply of goods or services to another trader for his business or to a legal person who is not a trader (Article 220(1) of Directive 2006/112). No invoice need be issued if the transaction is VAT exempt under Section 4(8) to (28) of the Turnover Tax Act and the recipient of the goods or services does not have the right to deduct on the transaction (Section 14(2) sentence 1, point 2, sentence 3 of the Turnover Tax Act and Article 221(3) of Directive 2006/112/EC).

21. WHAT ARE THE RULES ON CORRECTIVE INVOICES (CREDIT / DEBIT NOTES)?

Under Section 31(5) of the Turnover Tax Implementing Regulation, an invoice may be corrected where

- it does not contain all the information required under Section 14(4) or Section 14a of the Turnover Tax Act or
- information in the invoice is incorrect.

Missing or incorrect information must be provided in the form of a document referring specifically and clearly to the invoice. The same requirements concerning the form and content of the invoice apply as in Section 14 of the Turnover Tax.

22. WHAT IS THE TIME LIMIT FOR ISSUING INVOICES?

Under the present invoicing requirements, the trader supplying the goods or services must issue an invoice within six months of effecting the supply.

23. WHAT ARE THE RULES FOR SUMMARY INVOICING?

In the case of long-term contracts, the information from the contract required under Sections 14(4) and 14a of the Turnover Tax Act is sufficient. It is not necessary to also include all the information in the receipt.

24. WHAT ARE THE CONDITIONS IMPOSED ON SELF-BILLING?

An invoice may be issued by the recipient referred to in Section 14(2), first sentence, point 2, of the Turnover Tax Act provided that this has been previously agreed. A credit note ceases to have the effect of an invoice if the recipient of the credit note does not accept the document provided.

25. IS THERE ANY SPECIFIC RULE IN RELATION TO OUTSOURCING OF INVOICES TO A PERSON WHO IS ESTABLISHED OUTSIDE THE EU?

No.

CONTENT OF INVOICES

26. UNDER WHAT CONDITIONS MUST THE VAT NUMBER OF THE CUSTOMER BE ON THE TAX INVOICE?

The circumstances under which the recipient's VAT identification number must also be given are laid down in Section 14a of the Turnover Tax Act. The recipient's VAT identification number must be given where the trader effects another supply within the meaning of Section 3a(2) of the Turnover Tax Act in Germany and the recipient is liable for the tax is under Section 13b(1) sentence 1, point 1 and (2) sentence 1 (Section 14a(1) Turnover Tax Act). It must also be given if the trader carries out an intra-Community supply (Section 14a(3) of the Turnover Tax Act). If an invoice covers a supply within the meaning of Section 25b(2) of the Turnover Tax Act, the recipient's VAT identification number must be given in the invoice (Section 14a(7) of the Turnover Tax Act).

27. IS THERE ANY OTHER SPECIFIC RULE IN RELATION TO THE CONTENT OF THE INVOICE?

The information to be given in the invoice is set out in Section 14(4) of the Turnover Tax Act. Additional requirements also have to be observed when issuing of invoices in particular cases (Section 14a of the Turnover Tax Act). In the case of invoices for transactions subject to different rates of VAT, Section 32 of the Turnover Tax Implementing Regulation also applies. Special rules apply to invoices for small amounts and transport tickets (Sections 33 and 34 of the Turnover Tax Implementing Regulation).

ELECTRONIC INVOICING

28. AS REGARDS INVOICES SENT WITH ADVANCED ELECTRONIC SIGNATURES, IS IT OBLIGATORY FOR THEM TO BE BASED ON A QUALIFIED CERTIFICATE AND CREATED BY A SECURE-SIGNATURE-CREATION DEVICE? IF SO, PLEASE SPECIFY.

Pursuant to Section 14(3)(1) of the Turnover Tax Act, when invoices are sent electronically the authenticity of the origin and the integrity of the content must be guaranteed, as a minimum, by a qualified electronic signature in accordance with the Signature Act of 16 May 2001.

29. AS REGARDS INVOICES SENT BY ELECTRONIC DATA INTERCHANGE, IS AN ADDITIONAL SUMMARY DOCUMENT ON PAPER OBLIGATORY? IF SO, PLEASE GIVE DETAILS ABOUT ITS CONTENT AND PROCEDURE.

No.

30. DOES YOUR MEMBER STATE ALLOW INVOICES ISSUED PURSUANT TO ARTICLE 233(1), SECOND SUBPARAGRAPH, OF VAT DIRECTIVE 2006/112/EC ("SENT BY OTHER ELECTRONIC MEANS")? IF SO, UNDER WHICH CONDITIONS AND FORMALITIES?

An invoice may be sent electronically from one standard fax to another. The condition for recognition for the purposes of the deduction of input tax is that both the person issuing the invoice and the recipient retain a copy of the invoice in paper form. If the invoice is printed out on thermopaper, storage in the form of a paper copy is required.

In accordance with Section 14(3)(1) of the Turnover Tax Act, a qualified electronic signature, or a qualified electronic signature accredited by the supplier, is required where invoices are sent by e-mail. The same applies for the following forms of transmission: standard fax to computer/fax server, computer fax/fax server to standard fax, computer fax/fax server to computer fax/fax server.

Transport tickets may be issued on-line, as long as it is ensured that the ticket can only be issued where the amount has been debited from a customer or credit card account. The recipient must also keep a paper copy of the ticket.

31. IS THERE ANY OTHER SPECIFIC RULE IN RELATION TO ELECTRONIC INVOICING?

No.

STORAGE OF INVOICES

32. WHAT ARE THE RULES ON THE PLACE OF STORAGE OF INVOICES?

Traders established in Germany must keep invoices in Germany or in the areas referred to in Section 1(3) of the Turnover Tax Act. If invoices are stored electronically and the relevant files, in full, can be consulted online, downloaded and used, traders may store the invoices in the rest of the Community territory, Büsingen and the island of Heligoland. Traders who are not established in Germany must indicate where invoices are stored in Community territory, in one of the areas listed in Section 1(3) of the Turnover Tax Act, Büsingen or the island of Heligoland.

33. IS PRIOR NOTIFICATION OF INVOICES STORED IN ANOTHER COUNTRY AN OBLIGATION? IF SO, PLEASE GIVE DETAILS.

If German traders do not store invoices in Germany or in one of the areas listed in Section 1(3) of the Turnover Tax Act, they must inform the tax authorities where the invoices are stored (Section 14b(2), third sentence, of the Turnover Tax Act).

34. WHAT IS THE OBLIGATORY STORAGE PERIOD FOR INVOICES?

Invoices must be kept for ten years.

35. WHAT ARE THE SPECIFIC RULES ON THE FORM OF STORAGE AND ANY TRANSFER TO OTHER VISUAL OR DATA MEDIA?

If invoices are sent electronically, traders must keep not only the invoice but also proof of the authenticity and integrity of the data (e.g. qualified electronic signature) even where the validity of this evidence has expired under other provisions.

Under certain circumstances, invoices may be stored on visual media (e.g. microfilm) or on other data media (e.g. magnetic band, diskette, CD-Rom) (see Section 147(2) of the Tax Code).

The procedure used for storing invoices must comply with the principles of proper bookkeeping and in particular the requirements laid down in the BMF notice of 1 February 1984 (BStBl I, p. 155) and the annexed principles governing microfilm and the principles of electronic bookkeeping systems (GoBS) (Annex to the BMF notice of 7 November 1995 - BStBl I, p. 738). In principle, if these conditions are met, the originals of the invoices may be destroyed.

36. ANY OTHER SPECIFIC RULE IN RELATION TO INVOICE STORAGE.

None.

SIMPLIFIED INVOICES

37. WHAT ARE THE SITUATIONS WHERE SIMPLIFIED INVOICING IS ALLOWED PURSUANT TO ARTICLE 238 OF THE VAT DIRECTIVE (2006/112/EC)? AND WHAT ARE THE SPECIFIC RULES?

In the case of invoices for small amounts and transport tickets treated as invoices, the following simplified provisions apply.

In the case of invoices for amounts of no more than EUR 150 (from 1 January 2007), only the following information is required under Section 33 of the Turnover Tax Act:

- the full name and address of the supplier,
- the date of issue,

- the quantity and nature of the goods supplied or the extent and nature of the services rendered; and
- the consideration and the amount of VAT payable and the rate of VAT to be applied or, where the supply is VAT-exempt, a statement that this is the case.

Transport tickets which are treated as invoices must contain the following information:

- the full name and address of the undertaking carrying out the transport service (Section 31(2) of the Turnover Tax Implementing Regulation applies *mutatis mutandis*),
- the date of issue,
- the consideration and amount of VAT payable in total and
- the rate of VAT to be applied where the transport service is not subject to the reduced rate under Section 12(2)(10) of the Turnover Tax Act or, where Section 26(3) of the Turnover Tax Act applies, a reference to the fact that an international air transport operation is involved.

PERIODIC VAT RETURNS

38. UNDER WHAT ARE CIRCUMSTANCES MUST A VAT RETURN BE SUBMITTED?

In principle, all taxable persons registered as traders are obliged to submit provisional periodic VAT returns, in which they themselves calculate the interim payments they have to make, and an annual VAT return.

39. AT WHAT INTERVALS ARE VAT RETURNS AND ASSOCIATED PAYMENTS TO BE MADE?

By the tenth day following the end of each period covered by the provisional return, traders have to file a provisional return electronically using the officially prescribed data set in accordance with the Tax Data Transmission Regulation; in this return they must calculate the tax (interim payment) themselves for the period covered by the provisional return. On application, the tax office may waive electronic transmission to avoid undue hardship. The interim payment is due on the tenth day following the end of the period covered by the provisional return, which is usually a calendar quarter. If the amount of VAT for the previous calendar year exceeds EUR 7 500, the period covered by the provisional return is a calendar month. If the amount of VAT for the previous calendar year does not exceed EUR 1 000, the tax office can exempt traders from the obligation to submit a provisional return. If there is a surplus in their favour of more than EUR 7 500 for the previous calendar year, traders may, subject to certain time limits for applying, choose the calendar month rather than the calendar quarter as the period covered by the provisional return.

When traders commence trading, they are required to submit monthly provisional returns in the current and next calendar year. Only once they have been trading for two calendar years do the rules described above apply.

In addition to making provisional returns, a trader must submit an annual VAT return for the whole calendar year using an official standard form. This must be submitted by 31 May of the following year. If the tax due on the basis of this return exceeds the interim payments or no provisional returns were submitted, the balance due must be paid within one month following submission of the return to the tax office. Any refund approved will be paid by the tax office.

40. WHAT IS THE PROCEDURE FOR THE REPAYMENT OF EXCESS VAT DECLARED IN THE PERIODIC VAT RETURN? WHAT ARE THE TIME LIMITS FOR REPAYMENT, IF ANY?

VAT refunds are never paid in cash. Consequently traders must always supply their account number/sort code or IBAN/BIC. Refunds can be paid using IBAN and BIC within the Single Euro Payments Area (SEPA), which includes all the EU Member States and Iceland, Norway, Liechtenstein and Switzerland.

There are no particular deadlines for refunds.

41. DOES A SPECIAL REGIME EXIST FOR PERIODIC VAT RETURNS FOR SMALLER TRADERS AND/OR CERTAIN CATEGORIES OF BUSINESS? IF SO, PLEASE DESCRIBE.

No. In principle all traders must submit VAT returns. See the answer to question 39 for reduced requirements according to the amount of tax.

42. DO YOU OPERATE SIMPLIFIED CALCULATIONS OF TAX LIABILITY? IF SO, WHAT ARE THE QUALIFYING CRITERIA, TO WHOM DO THEY APPLY AND WHAT IS THE NATURE OF THE SIMPLIFICATION?

On application, the tax office may allow traders,

- whose total turnover in the previous calendar year did not exceed EUR 500 000, or
- who are exempt from the obligation to keep records and to draw up annual stock inventories, or
- whose turnover derives from activities as members of the liberal professions,

to calculate the tax on the basis of the consideration received rather than that agreed.

If the exemption from the obligation to keep records and draw up annual stock inventories is confined to individual operations of a trader and if total turnover in the previous year exceeds EUR 500 000, authorisation to calculate the tax on the basis of the agreed consideration must be confined to those operations. If the trader changes the method of calculating VAT, transactions must not be taxed twice or escape taxation.

At present the EUR 500 000 turnover ceiling applies only until 31 December 2011. From 1 January 2012 the ceiling is expected to be EUR 250 000.

See also answers to questions 51 and 52.

RECAPITULATIVE STATEMENTS

43. DO YOU ALLOW SUBMISSION OF RECAPITULATIVE STATEMENTS BY CALENDAR QUARTER? IF SO, WHAT ARE THE THRESHOLDS FOR APPLYING SUCH PROCEDURES?

Traders must submit statements to the Bundeszentralamt für Steuern electronically, using the officially prescribed data set, within ten days following the end of the calendar quarter in which they effected intra-Community supplies of goods or supplied certain taxable services elsewhere on Community territory in cases where the customer established in another Member State is liable for the tax there, or in which they effected supplies as part of triangular transactions.

Traders who have been released by the tax office from the obligation to submit provisional returns and interim payments may submit the recapitulative statement up to ten days after the end of the calendar year in which they effected intra-Community supplies of goods or supplied certain taxable services elsewhere on Community territory in cases where the customer established in another Member State is liable for the tax there, if

1. the amount of their supplies of goods and services did not exceed EUR 200 000 in the previous calendar year and is unlikely to exceed that amount in the current calendar year,
2. the sum of their intra-Community supplies of goods, or taxable supplies of services elsewhere in the Community in cases where the customer established in another Member State is liable for the tax there, did not exceed EUR 15 000 in the previous calendar year and is unlikely to exceed that amount in the current calendar year and
3. the supplies of goods referred to in point 2 are not supplies of new vehicles to customers with VAT identification numbers.

In view of the forthcoming implementation of Council Directive 2008/117/EC of 16 December 2008 amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions, the law in this area will probably be amended in the second half of 2010, particularly as regards submission time limits.

44. IS ANY ADDITIONAL INFORMATION REQUIRED OTHER THAN THAT SET OUT IN ARTICLE 266 OF THE VAT DIRECTIVE (2006/112/EC)?

No.

45. DO YOU OPERATE SIMPLIFIED PROCEDURES AS REGARDS RECAPITULATIVE STATEMENTS AS PROVIDED FOR IN ARTICLE 269 OF THE VAT DIRECTIVE (2006/112/EC)? IF SO, WHAT ARE THE RELATED THRESHOLDS FOR APPLYING SUCH PROCEDURES?

Yes. The thresholds are 200 000 and 15 000.

ELECTRONIC RETURNS

46. IS IT POSSIBLE TO SUBMIT VAT RETURNS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT RETURNS ELECTRONICALLY?

Provisional VAT returns are to be submitted electronically as a rule. Annual VAT returns may be submitted electronically.

The Tax Data Transmission Regulation (StDÜV) forms the legal basis for electronic submission of provisional VAT returns.

The procedure for the electronic submission of VAT returns, known as “ELSTER”, is described in detail on the website www.elster.de.

ELSTER forms for provisional and annual VAT returns can be downloaded.

47. IS IT POSSIBLE TO SUBMIT RECAPITULATIVE STATEMENTS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT STATEMENTS ELECTRONICALLY?

Recapitulative statements must be submitted electronically as a rule. The Tax Data Transmission Regulation (StDÜV) forms the legal basis for electronic submission of recapitulative statements.

The trader must make a “declaration of participation” for the electronic submission of recapitulative statements. This is to be submitted to the Bundeszentralamt für Steuern. After submitting the declaration of participation, the trader receives a registration number by post from the Bundeszentralamt für Steuern. The registration number is to be entered on the form when submitting the recapitulative statements electronically.

No additional hardware is required for the electronic submission of recapitulative statements. However, the following software – which is available free of charge – must be installed on the system:

- Java Runtime Environment, version 1.4.2.,
- Adobe/Acrobat Reader Version 5.05 or higher,
- ElsterOnlineManager_Light (EOM).

OBLIGATIONS AT IMPORTATION

48. WHO ARE THE PERSONS THAT CAN BE DESIGNATED OR RECOGNISED AS LIABLE TO PAY IMPORT VAT UNDER ARTICLE 201 OF THE VAT DIRECTIVE ?

Under Section 13a(2) in conjunction with Section 21(2) of the Turnover Tax Act, the provisions applicable to customs duties apply *mutatis mutandis* to import VAT and consequently when goods are released for free circulation the customs declarant also becomes the person liable to pay import VAT.

49. WHAT ARE THE RULES FOR DECLARATION AND PAYMENT OF IMPORT VAT ?

Section 21(2) of the Turnover Tax Act provides that the relevant customs provisions also apply to the declaration and payment of import VAT. The customs declaration therefore also functions as an import VAT declaration. The following customs provisions are applied to the payment of import VAT:

The import VAT established is as a rule to be paid immediately (Articles 222 and 223 of Regulation (EEC) No 2913/92). In the case of commercial imports a period of up to ten days may be allowed for payment. Another payment facility is the global deferment of payment upon application (Article 226(b) et seq. of Regulation (EEC) No 2913/92). In this case all the imports in a month are aggregated and the total amount of import VAT is not paid until the 16th day of the following month to the Bundeskasse Trier [Federal Treasury Office in Trier].

50. DO YOU APPLY THE OPTION OF "POSTPONED ACCOUNTING" REFERRED TO IN ARTICLE 211 OF THE VAT DIRECTIVE ? IF SO, UNDER WHICH CONDITIONS ?

No.

ADMINISTRATIVE REQUIREMENTS

51. DO YOU OPERATE A FLAT-RATE SCHEME? IF SO, TO WHOM DOES THE SCHEME APPLY?

There are flat-rate schemes for farmers and foresters.

52. DO YOU OPERATE SIMPLIFIED ADMINISTRATIVE REQUIREMENTS OTHER THAN THOSE ALREADY MENTIONED? IF SO, PLEASE DESCRIBE.

Certain groups of traders whose turnover in the previous calendar year did not exceed EUR 61 356 may calculate input tax deductions on a flat-rate basis according to a certain percentage of their turnover (average rates). However, if this method is used the amount of VAT must not differ significantly from the amount which would have resulted if the method had not been used.

53. IN WHICH LANGUAGE(S) ARE FORMS (PERIODIC VAT RETURNS AND RECAPITULATIVE STATEMENTS) AVAILABLE? ARE TRANSLATIONS AVAILABLE?

The forms are available only in German.

RIGHT TO DEDUCTION

54. FOR WHICH CATEGORIES OF GOODS AND SERVICES IS THERE NO RIGHT OF DEDUCTION?

Input tax relating to entertainment expenditure which cannot be deducted for income tax purposes or which relates to private household costs cannot be deducted (Section 15(1a) Turnover Tax Act). The same applies to removal costs resulting from a change of residence.

Input tax may not be deducted on the supply, importation or intra-Community acquisition of an item which the trader uses less than 10% for his business (second sentence of Section 15(1) Turnover Tax Act).

55. ARE THERE CATEGORIES OF GOODS AND SERVICES IN WHICH THERE IS A PARTIAL RIGHT OF DEDUCTION? IF SO, WHAT IS THE PERCENTAGE?

Not applicable.