

GERMANY

Name of the firm

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AT A GLANCE

Name of the tax

Value Added Tax

Local name

Umsatzsteuer

Date introduced

1 January 1968

Date of membership in EU

27 May 1952

Administered by

Bundeszentralamt für Steuern (www.bzst.de)

VAT rates

Standard

19%

Reduced

7%

Other

see under exemptions

VAT Number format

DE 999999999

VAT return periods

monthly (in the first two years obligatory); later quarterly, if the annual VAT payment of the previous year was EUR 7.500,00 or less; or later yearly, if the annual VAT payment of the previous year was EUR 1.000,00 or less

Thresholds registration

none

Recovery of VAT by non-established

Businesses YES

HISTORY OF VAT

The VAT system in Germany began already in the antiquity and was re-implanted in 1918 with a tax rate of 0,5 % increasing to 10 % in 1968 with the start of the VAT system like today. The German VAT system has specific rules e.g. for passengers transport by foreign bus operators, exhibitions and events and for VAT registration.

SCOPE OF VAT

The most common cases with German VAT are:

- supplies and services, which are performed in Germany by a company
- import of goods (import VAT)
- intra-community acquisition

REGISTRATION

In some cases a VAT registration in Germany is obliged. A group registration for foreign companies is not possible. In the following cases a VAT registration is required:

- Sales (of goods stored in Germany) within Germany or to foreign located companies (EU intra community sales, exports)
- Storing goods in a warehouse in Germany as stock for resale (e.g. consignment stock)
- Chain supplies
- Distance selling to private individuals in Germany (over the annual threshold of EUR 100.000,00; some exemptions of this rules exist)
- Works made on a real estate located in Germany and belonging to an individual
- Procurement services to individuals
- Passenger transport by a foreign company in Germany (some exemptions of this rules exist)
- Organizing live events, conferences etc. in Germany
- Trade fair organizing in Germany by a foreign provider for foreign exhibitors
(some exemptions of this rules are existing)
- Receipt of services taxable in Germany from suppliers in other countries
- Receipt of other Reverse Charge services taxable in Germany

VAT RATES

7 %: As examples: food, raw material, books, tickets for museum, theatre or concerts, renting of short-term accommodations (e.g. hotel)

19 %: others

PLACE OF SUPPLY RULES

The place of supply is where the supply begins.

The rules about the chain supply were exemptions to the general rule. The moving supply appears only once in a chain supply and follows a general rule. If the first supplier is transporting or sending goods, the supply to the first customer in the middle is the moving supply. If the supplier in the middle is acting with the VAT ID no. where the supply starts and bears risk and cost of the transport or if the last customer is picking up the goods, the moving supply is between the last customer and the supplier before.

The static supply is taxable at the beginning of the supply, when being before the moving supply. If the static supply is following the moving supply, the place of supply is at the end of the sending or transport.

The place of services is where the recipient is running his business, with exemptions e.g. for services with property / real estates, the granting of entry tickets to e.g. cultural, artistic or sport events and for services to individuals.

TIME OF SUPPLY RULES

The tax liability is arising in the VAT period, when the supply or service will be performed. The date of delivery is when the customer is receiving the goods and the date of service is the last date of the service.

The rule of taxation according to the income received is an exemption to the general rule. The VAT liability is arising, at the moment when the income is received.

EXEMPTIONS

VAT free supplies are exports and intra-community deliveries with tax credit / tax refund. Without tax credit are for example the purchase and sale of real estates, the renting of flats and houses and the services and supplies of a doctor.

RECOVERY OF INPUT VAT

An application for a VAT refund can be submitted each month or within the filing period and takes usually about one or two weeks. If the refund is higher than the amounts in the month before, it could take about one to two months and the tax office is often requesting the (original) invoices. When performing tax free supplies, the refund of input VAT could be restricted or limited.

According to the 8th directive, EU companies can reclaim VAT in Germany until latest September 30th of the following year. Usually, the time period to receive the refund takes about four months and if the tax authority requests additional information about eight months. A refund for a period of a calendar year or a remainder of a calendar year could be applied if the refund is EUR 50,00 or more and for shorter periods if the refund is EUR 400,00 or more. The VAT refund application form has to be submitted electronically in the state of residence without signature. If a tax adviser prepares the application for the VAT refund, a power of attorney to the responsible tax office has to be included and the invoices have to be scanned, if the import/input VAT was EUR 1.000,00 or more or if the VAT on fuel supply was EUR 250,00 or more.

According to the 13th directive companies outside the EU can reclaim the VAT in Germany until June 30th of the following year. The time period to receive the refund takes at least 6 to 9 months and on average one year. A refund for a period of three consecutive calendar months could be applied if the refund is EUR 1.000,00 or more; a refund of a calendar year or a remainder of a calendar year is possible, if the refund is EUR 500,00 or more. A claim can be filed four times a year maximum. Germany has reciprocity agreements with Andorra, Antigua and Barbuda, Australia, Bahamas, Bahrain, Bermuda, British Virgin Islands, Brunei Darussalam, Bosnia and Herzegovina, Canada, Cayman Islands, China (Taiwan), Croatia, Gibraltar, Greenland, Grenada, Guernsey, Hong Kong, Iceland, Iran, Iraq, Israel, Jamaica, Japan, Jersey, Korea (People's Rep.), Korea (R.O.K.), Kuwait, Lebanon, Liberia, Libya, Liechtenstein, Macao, Maldives, Macedonia, Norway, Oman, Qatar, Pakistan, St. Vincent, San Marino, Saudi Arabia, Solomon Islands, Swaziland, Switzerland, United Arab Emirates, U.S. and Vatican City. VAT cannot be recovered on goods and services for private purposes, services or goods connected to certain exempt activities and supplies of fuel. The original invoices, receipts, bills etc., original customs declaration documents for import VAT, a VAT certificate in the country of residence (not older than one year), authority and the signature of the claimant are necessary.

COMPLIANCE OBLIGATIONS

All incoming invoices (as originals), all import VAT assessment notes and all outgoing invoices have to be included in the VAT return filing. An outgoing invoice has to be issued latest six months after the date of supply or service (general rule). Also electronic invoices or self-billing invoices are possible, if there is an agreement between the supplier and the customer.

The filing and payment due date for the VAT periods monthly and quarterly is always the 10th of the following month and the annual VAT return has to be filed within the following year and the payment is due four weeks after the filing of the return. For the monthly and quarterly VAT reports it is possible to apply for a permanent extension in time. In this case the filing and payment due date would be exceeded by an additional month. Late payment penalties with 1% per month could arise and also late filing penalties (will be set up individually by the tax office).

All incoming (original) and outgoing invoices including all documents for intra-community deliveries and exports have to be kept for 10 years.

SPECIAL CASES

Exhibition services are taxable at the place of residence of the recipient, when additionally to the renting of the exhibition space three other services like e.g. entry tickets or merchandising were provided. If the service is only the renting of the exhibition space, the service is taxable with German VAT.

In Germany a differential taxation rule for art and antiques exists, if the retailer received the goods without paying VAT or with differential taxation.

The reverse charge system is applicable for German and foreign companies in the following cases:

- Construction work
- Commercial cleaning
- Purchases and sales of real estates
- Deliveries of scrap
- Deliveries of mobile phones and electric circuits
- Deliveries of gold
- work supplies and services of foreign located companies

With the following exemptions:

- Granting of admissions to events like conferences, congresses, fairs etc.
- Trade fair organizing in Germany by a foreign provider for foreign exhibitors
- Passenger transport by taxi or cars
- Cross-border air passenger transport
- Restaurant services on board of planes, boats and trains

RIGHTS OF THE TAX PAYER AND THE VAT AUTHORITIES

The tax payer can change the VAT returns with revisions and latest with the filing of the annual VAT return. There is the possibility to file an objection against tax assessment notes within four weeks after receiving the assessment note. If there is the obligation to file VAT returns and no returns were filed, the tax office can estimate the VAT amount. The tax authorities are allowed to announce a tax audit.

EU DECLARATIONS

INTRASTAT declarations have to be filed on the 10th of the following month, if there is something to declare. The threshold for arrivals and dispatches is each time EUR 500.000,00. If sales or services are performed to other EU companies, an EC-sales list has to be filed on a monthly basis if the net sales were more than EUR 50.000,00 per quarter and on a quarterly basis if the net sales were EUR 50.000,00 or less per quarter; due date for filing is the 25th of the following month.