



**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 necessarily reflect the views of the Commission of the European Communities. Nor does it signify approval of the relevant legislation.**

# GERMANY

## GENERAL INFORMATION

**1. WHERE CAN FOREIGN TRADERS OBTAIN INFORMATION ABOUT YOUR VAT SYSTEM (ADDRESS, TELEPHONE NUMBER, FAX NUMBER, E-MAIL)?**

Bundesministerium der Finanzen  
Referat Presse und Information  
11016 Berlin  
Fax No: (0 30) 22 42 - 32 60

**2. WHAT IS THE GERMAN TAX AUTHORITIES' WEBSITE ADDRESS? WHAT TYPE OF INFORMATION ON VAT CAN BE CONSULTED ON THIS WEBSITE (GENERAL INFORMATION, LEGISLATION, CONTACT PERSONS, FORMS, ETC.)? IN WHAT LANGUAGES?**

General information on Germany's VAT rules can be consulted on the website of the *Bundesministerium der Finanzen* ([www.bundesfinanzministerium.de](http://www.bundesfinanzministerium.de)). More detailed information and a number of forms are available on the website of the *Bundesamt für Finanzen* ([www.bff-online.de](http://www.bff-online.de)). The information is available in German only.

**3. WHERE ARE NATIONAL VAT RULES LAID DOWN? IN WHAT LANGUAGES ARE THEY AVAILABLE?**

German VAT rules are laid down in the 1999 Turnover Tax Law (UStG), the 1999 Turnover Tax Implementing Regulation (UStDV) and the 2000 Turnover Tax Guidelines (UStR). They are available only in German.

## VAT REGISTRATION OF FOREIGN TRADERS

**4. WHAT ARE THE CONDITIONS FOR VAT REGISTRATION?**

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

**5. WHEN DO TRADERS NOT HAVE TO BE REGISTERED FOR VAT PURPOSES BECAUSE THE VAT IS PAYABLE BY THE RECIPIENT OF THE GOODS OR SERVICES? CAN FOREIGN TRADERS VOLUNTARILY REGISTER FOR VAT IN SUCH CASES?**

Where traders who are not established in Germany effect taxable supplies or services (excluding passenger transport services which are subject to a separate transport tax), the recipients of the goods or services are liable for VAT if they are traders or legal persons governed by public law. In such cases recipients have to calculate the tax on the consideration (net amount) and declare it to their local tax office. The trader providing the goods or services does not have to register for VAT purposes. Traders can voluntarily register for VAT in the Federal Republic of Germany if they wish to do so.

**6. WHERE MUST FOREIGN TRADERS APPLY IF THEY WISH TO REGISTER FOR VAT PURPOSES (NAME OF AUTHORITY, ADDRESS, TELEPHONE AND FAX NUMBERS AND E-MAIL)?**

Details of the VAT offices responsible for foreign traders can be found on the website of the Bundesamt für Finanzen (<http://www.bff-online.de/ust/ustv/ustzust.html>). Traders operating from one of the Member States listed must apply to the relevant local tax offices indicated. Traders not operating from one of the Member States listed must apply to the *Berlin Finanzamt Neukölln-Nord* (address: Sonnenallee 223, 12059 Berlin). Foreign traders with subsidiaries in Germany must apply to their subsidiaries' local tax offices. Information can be accessed on line at the Bundesamt für Finanzen (<http://195.37.191.41/cgi-bin/gemfai.exe>) by entering the name of the locality and postal code.

**7. WHAT ARE THE PROCEDURES USED TO ISSUE VAT IDENTIFICATION NUMBERS (AND WHAT DOCUMENTS ARE REQUIRED) FOR 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. The duly completed and signed form should be returned to the tax office and traders will be issued a VAT number by post.

VAT numbers (in Germany: USt-IdNr.) are issued on written application to the Bundesamt für Finanzen (address: Industriestraße 6, D - 66738 Saarlouis).

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

- applicants' name and address;
- the number under which they are registered for VAT purposes with the relevant German tax office;
- the address of that tax office.

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. Small traders are exempted and special rules apply to flat-rate farmers.

The exemption for small traders is based on turnover thresholds. VAT is waived where total turnover in the previous calendar year did not exceed €16 620 and is unlikely to exceed €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. WHAT THRESHOLDS APPLY IN GERMANY TO INTRA-COMMUNITY DISTANCE SELLING UNDER ARTICLE 28B(B)(2) OF THE SIXTH VAT DIRECTIVE?**

€100 000

### **9. WHAT THRESHOLDS APPLY IN GERMANY TO ACQUISITIONS BY NON-TAXABLE LEGAL PERSONS OR EXEMPT/TAXABLE PERSONS UNDER THE SECOND SUBPARAGRAPH OF ARTICLE 28A(1)(A) OF THE SIXTH VAT DIRECTIVE?**

€12 500

## **APPOINTMENT OF A TAX REPRESENTATIVE BY TRADERS FROM NON-EU STATES**

### **10. WHEN DOES A TAX REPRESENTATIVES HAVE TO BE APPOINTED?**

The use of a tax representative is not compulsory. A tax representative is used only where the person represented in Germany effects only non-taxable transactions and cannot deduct input tax. Such persons may not have their domicile, offices, management or branches in Germany or in the areas referred to in Article 1(3) of the Turnover Tax Law.

Tax representatives are used in the case of:

- exempted imports which are immediately followed by an intra-Community supply;
- exempted cross-border transport where a trader does not receive supplies or other services on which input tax can be deducted.

### **11. WHAT ARE THE RULES GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?**

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

Tax representatives may only be:

- members of the tax and tax advisory professions;
- forwarding agents assisting with inward customs clearance;
- other commercial undertakings assisting with inward customs clearance.

Such forwarding agents and other commercial undertakings may only act as tax representatives if they are established in the Federal Republic of Germany.

## **12. WHAT ARE THE RIGHTS AND OBLIGATIONS OF TAX REPRESENTATIVES?**

Tax representatives have to comply with the VAT obligations of all the foreign traders they represent, as if they were their own, with their local tax offices under a special VAT 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 USt-IdNr (VAT) number. The separate tax number will be issued by the tax representatives' tax offices. The USt-IdNr number will be issued by the Bundesamt für Finanzen on application. This number covers all the foreign traders they represent.

Tax representatives must comply with the 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 turnover tax declarations for each calendar year under the separate tax number. These must include all the tax assessment bases relating to all the persons represented. Individual lists are not necessary. The deadlines for submission of these declarations are laid down in the general tax provisions. Tax representatives must submit recapitulative statements to the Bundesamt für Finanzen 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 this 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 USt-IdNr. (VAT) number assigned to the tax representative.

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 effects taxable works 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 authorised 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 under intra-Community triangular transactions on which the final customer has to pay VAT.

The period of a tax representative's appointment ends where 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 where the person represented initially appoints a tax representative but effects taxable transactions in Germany or is allowed to deduct the input tax charged within the assessment period.

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 general accounting and declaration obligations applying from the time they were first appointed to 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 or apply for their own USt-IdNr. (VAT) number.

**13. WHAT ACTION CAN YOU TAKE IN THE EVENT OF FAILURE BY A TRADER IN ANOTHER MEMBER STATE TO APPOINT A TAX REPRESENTATIVE IN YOUR COUNTRY?**

Since it is not compulsory to appoint a tax representative no action can be taken as no rules have been broken.

**14. IS A BANK GUARANTEE REQUIRED?**

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

**APPOINTMENT OF A TAX REPRESENTATIVE BY TRADERS FROM OTHER EU MEMBER STATES**

**15. CAN EU NATIONALS 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 RULES GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?**

See answer to question 11.

## **17. WHAT ARE THE RIGHT AND OBLIGATIONS OF TAX REPRESENTATIVES?**

See answer to question 12.

## **18. WHEN IS A BANK GUARANTEE REQUIRED?**

See answer to question 14.

## **INVOICING**

### **19. WHAT ARE THE CONDITIONS GOVERNING THE ISSUING OF INVOICES?**

The rules governing the issuing of invoices are laid down in Articles 14 and 14a of the Turnover Tax Law and Articles 31 to 34 of the Turnover Tax Implementing Regulation. Any trader is entitled to issue an invoice for supplies of goods and services effected. Where transactions are effected for another trader on behalf of this trader or for a legal person an invoice must be issued if requested.

An invoice must contain the following information:

- the name and address of the supplier;
- the name and address of the recipient;
- the quantity and usual description of the goods supplied or the nature and scope of the services effected;
- the date of supply of the goods or services;
- the consideration for the goods or services supplied;
- the amount of VAT payable on the consideration which must be indicated separately, or, if the transaction is exempt, this must be indicated.

In invoices issued after 30 June 2002 suppliers must give the tax number assigned to them by the tax authorities.

Traders must always issue invoices for non-taxable intra-Community supplies in which they must indicate that these supplies are exempt. Traders must also issue invoices for the following transactions giving separate details of the tax payable if these transactions are taxable in Germany:

- distance selling to customers without VAT numbers;
- certain services undertaken by intermediaries and in particular those of commercial representatives;
- intra-Community transport including ancillary services and their procurement;
- work on moveable tangible property and the valuation of such property;

- invoices for intra-Community supplies of new vehicles to certain customers. These must also contain further information to prove that they concern a “new vehicle”.

If a trader effects transactions on which the recipient must pay VAT, an invoice must be issued indicating that the recipient is liable for VAT. Under no circumstances must the turnover tax be indicated separately.

In the case of intra-Community triangular transactions there must be a reference to this fact and the final recipient’s tax liability.

Under German law there is no rule requiring that an invoice be issued within a certain period after the supply of goods or services has been effected.

**20. ARE THERE EXEMPTIONS FROM THE OBLIGATION TO ISSUE AN INVOICE? IF SO, UNDER WHAT CIRCUMSTANCES?**

German law provides for such an exemptions only where the recipient is a private individual. There are not yet any simplified invoicing rules.

**PERIODIC VAT RETURNS**

**21. WHEN DOES A TRADER HAVE TO SUBMIT A VAT RETURN?**

As a general rule, all taxable persons registered as traders are obliged to submit provisional VAT returns in which they themselves calculate the advance payments they are to make, and an annual VAT return.

**22. 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 submit a provisional return using an official form in which they are required to calculate the tax themselves (advance payment) for the period covered by the provisional return. The advance payment is due on the tenth day following the end of the period covered by the provisional return. This is usually a calendar month. If the amount of VAT for the preceding calendar year exceeds €6 136, the period covered by the provisional return is a calendar month. If the amount of VAT for the preceding calendar year does not exceed €512, 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 €6 136 for the previous calendar year traders may, subject to certain time limits, chose the calendar month rather than the calendar quarter as the period covered by the provisional return.

When traders begins trading, they are required to submit monthly provisional returns in the current and subsequent 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 a 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 advance payments made or no provisional returns have been made, the balance due must be paid within one



month following submission of the return. Any refund approved will be paid by the tax office.

**23. ARE THERE SPECIAL RULES FOR PERIODIC VAT RETURNS FOR SMALL TRADERS AND/OR CERTAIN CATEGORIES OF BUSINESS? IF SO, PLEASE GIVE DETAILS.**

Small traders who do not opt for VAT and flat-rate farmers do not have to submit VAT returns (provisional returns or annual VAT return).

**24. IS THERE A SIMPLIFIED METHOD OF CALCULATING TAX LIABILITY? IF SO, PLEASE INDICATE WHO CAN USE THESE SIMPLIFIED PROCEDURES AND UNDER WHAT CONDITIONS, AND THE NATURE OF THE SIMPLIFICATION.**

On application a tax office may allow traders:

- whose total turnover in the previous calendar year did not exceed €125 000, or
- who are exempt from the obligation to keep records and to draw up annual stock inventories, or
- their 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 annual stock inventories is confined to a trader's individual operations and if total turnover in the previous year exceeds €125 000, 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 double counted or fail to be taxed.

### **RECAPITULATIVE STATEMENTS**

**25. AT WHAT INTERVALS DO RECAPITULATIVE STATEMENTS HAVE TO BE SUBMITTED?**

As a general rule, recapitulative statements have to be submitted for each calendar quarter by the tenth day following the end of the calendar quarter in which the trader effected intra-Community supplies of goods.

Where the tax office releases traders from the obligation to submit provisional VAT returns and make advance payments, the recapitulative statement may be submitted for a calendar year provided that:

- (1) the amount of their supplies of goods and services in the previous calendar year did not exceed €200 000 and is unlikely to exceed this amount in the current calendar year;
- (2) the amount of their intra-Community supplies of goods in the previous calendar year did not exceed €15 000 and is unlikely to exceed this amount in the current calendar year;

- (3) the supplies of goods referred to in point 2 do not concern deliveries of new vehicles to customers with VAT numbers.

The recapitulative statement is to be submitted only in respect of the calendar year in which the trader effected intra-Community supplies of goods.

**26. DO YOU REQUIRE ANY OTHER INFORMATION IN ADDITION TO THAT REFERRED TO IN ARTICLE 22(6) OF THE SIXTH VAT DIRECTIVE?**

No.

**27. DO YOU OPERATE SIMPLIFIED PROCEDURES FOR THE RECAPITULATIVE STATEMENTS PROVIDED FOR IN ARTICLE 22(12) OF THE SIXTH VAT DIRECTIVE? IF SO, WHAT THRESHOLDS ARE APPLIED?**

Yes. The thresholds are €200 000 and €15 000 (see answer to question 25).

**ELECTRONIC INVOICING AND COMPLIANCE WITH REPORTING OBLIGATIONS BY ELECTRONIC MEANS**

**28. IS ELECTRONIC INVOICING AUTHORISED? IF SO, UNDER WHAT CONDITIONS? WHAT ADMINISTRATIVE PROCEDURES HAVE TO BE OBSERVED?**

Electronic invoicing has been authorised since 1 January this year. In addition to the statutory information required (see question 19) a qualified electronic signature with supplier accreditation according to Article 15(1) of the Signature Act must be provided. If all these conditions are satisfied, an electronic invoice will be treated as an invoice. This means that input tax can be deducted on the basis of electronic invoicing subject to these further conditions.

**29. CAN VAT RETURNS BE SUBMITTED ELECTRONICALLY? IF SO, HOW, AND USING WHAT TECHNOLOGY? WHERE DOES THE RELEVANT APPLICATION HAVE TO BE MADE?**

Provisional VAT returns and annual statements for the calendar year can be submitted electronically.

The Tax Declaration Electronic Submission Regulation (StADÜV) forms the legal basis for electronic submission of provisional VAT returns. Under this Regulation VAT returns can also be submitted on mechanical data carriers (cassette) or electronically (based on standardised protocols). Traders may use this procedure provided they satisfy the following conditions:

- the data processing program used must be approved by the relevant body;
- authorisation must be given to the data provider;
- traders must declare their intention to use the procedure.

Provided these conditions are satisfied and all the information required in the tax return is provided, electronic transmission of the declaration will be treated in the same way as an official form. The same deadline apply for submission of a paper version to the tax authorities as to the submission of data by electronic means.

Separate applications must be submitted to the relevant tax office for approval and authorisation. They will be granted or refused in writing. Traders must submit their declaration of their intention to use the procedure using the prescribed form to their local tax office.

Traders using the electronic procedures under the StADÜV may also submit their VAT returns on the official forms. A amended tax return can be submitted electronically or on other data carriers or on the prescribed forms.

The relevant applications and a detailed description of the procedure can be found on the following website:

<http://www.bundesfinanzministerium.de/Aktuelles/BMF-Schreiben-.745.9355/Automation-in-der-Steuerverwaltung-br-Steueranme..htm?sort=nc.Titel>

There is also an internal procedure for the submission of electronic VAT returns and for annual statements. This is called ELSTER and is described in detail on the [www.elster.de](http://www.elster.de) website. VAT returns can also be submitted electronically via the ELSTER system.

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

**30. CAN RECAPITULATIVE STATEMENTS BE SUBMITTED ELECTRONICALLY? IF SO, HOW, AND USING WHAT TECHNOLOGY? WHERE MUST THE RELEVANT APPLICATION BE MADE?**

Recapitulative statements can be submitted electronically. The Regulation governing the submission of recapitulative statements by electronic means (ZMDV) forms the relevant legal basis. Under this Regulation recapitulative statements can also be submitted on mechanical data carriers. Participation in the system is voluntary. Traders using such systems for their record keeping or which employ computer companies to do so may submit the recapitulative statements on such carriers or through computer companies. Public data processing centres are also considered to be computer companies.

The Bundesamt für Finanzen must authorise a trader's or a computer company's participation in this system. Submission of data by such means is treated in the same way as a recapitulative statement in paper form provided this has been authorised and the data is submitted properly to the Bundesamt für Finanzen in Bonn. An accompanying official form - which can also be put on a data carrier - must be attached. This must be signed by the trader.

The electronic submission of recapitulative statements (based on a standardised procedure) is being piloted. It is not yet possible to submit recapitulative statements via the ELSTER system.

## ADMINISTRATIVE REQUIREMENTS

**31. ARE FLAT-RATE SCHEMES OPERATED? IF SO, WHAT ARE THEY?**

There are flat-rate schemes for farmers and foresters.

**32. ARE THERE SIMPLIFIED ADMINISTRATIVE REQUIREMENTS OTHER THAN THOSE ALREADY MENTIONED? IF SO, PLEASE GIVE DETAILS.**

Certain groups of traders whose turnover in the previous calendar year did not exceed €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 have been used.

**33. IN WHAT LANGUAGES ARE THE FORMS (PERIODIC VAT RETURN AND RECAPITULATIVE STATEMENT) AVAILABLE? ARE THEY TRANSLATED?**

The forms are available only in German.

## INPUT TAX DEDUCTION

**34. ON WHAT CATEGORIES OF GOODS AND SERVICES CAN INPUT TAX BE DEDUCTED?**

Input tax relating to entertainment expenditure which cannot be deducted for income tax purposes or which relates to private household costs cannot be deducted. Input tax relating to staff's travel costs cannot be deducted where they concern subsistence costs or the transport costs of staff vehicles. The same also applies to removal costs resulting from a change of residence.

**35. FOR WHAT CATEGORIES OF GOODS AND SERVICES CAN ONLY A PERCENTAGE OF THE INPUT TAX BE DEDUCTED? WHAT IS THE PERCENTAGE?**

Only 50% of input tax relating to the purchase or manufacture, import, intra-Community acquisition, hire or operation of vehicles used by traders for private purposes or for other non-business needs can be deducted.