

## FAQ Coronavirus: What enterprises need to do due to the temporary decrease of the German VAT rate

17 June 2020

To mitigate the economic consequences of the Corona crises, the German government has announced a **temporary decrease in the VAT rate from 1 July 2020 to 31 December 2020**. The **standard VAT rate is supposed to decrease from 19 % to 16 %** and the **reduced VAT rate from 7 % to 5 %**.

The decrease of the VAT rates requires enterprises to change systems and processes in IT and accounting, to check and, if necessary, adjust contracts. Moreover, an eye should be kept on invoices and the correct statement of VAT. If VAT is overstated in an invoice, the enterprise is generally liable for the overstated VAT and the recipient is not entitled to deduct the overstated VAT as input VAT.

### Which VAT rate is applicable?

To determine whether the decreased VAT rates are applicable, the **time of supply** is the decisive factor.

Supply before 1 July 2020	Standard VAT rate 19 % and reduced VAT rate 7 %
Supply between 1 July and 31 December 2020	Standard VAT rate 16 % and reduced VAT rate 5 %
Supply from 1 January 2021 onwards	Standard VAT rate 19 % and reduced VAT rate 7 %

### What is the time of supply?

Supply of goods	Point of time the recipient receives the <b>power of disposal</b> over the supplied goods
Supply of services	Point of time, the service is <b>completely fulfilled</b> . In the case of a <b>partial supply of service</b> : completion of the respective part is decisive

**Note:** A partial supply requires that (i) the respective service is economically divisible and (ii) the remuneration for the parts has been agreed separately, e.g.: ongoing IT-services to be paid for on a monthly / quarterly basis, maintenance services to be paid for on a monthly / quarterly basis.



### Which VAT rate applies for advanced payments?

In effect, the decisive factor for the VAT rate applicable to the supply in issue is the time of supply; regarding the advanced payments generally the VAT rate at the time of payment will be decisive. To which extent simplifications might apply has not been finally decided yet.

Time of supply	Advanced payment	VAT rate
Between 1 July and 31 December 2020	Before July 2020	Advanced payment is – generally – to be taxed with 19 % or 7 %. The tax rate must be decreased to 16 % or 5 % at the <b>latest</b> in the <b>final invoice</b> . Re VAT returns the decrease has to be recorded at the latest in the reporting period in which the supply was rendered.
From 1 January 2021 onwards	Between 1 July and 31 December 2020	Advanced payment is – generally – to be taxed with 16 % or 5 %. The tax rate must be increased to 19 % or 7 % at the latest in the final invoice. Re VAT returns the increase has to be recorded at the latest in the reporting period in which the supply was rendered.

**Note:** Invoices issued before 1 July 2020 can already state a VAT rate of 16 % or 5 %, if the respective supply will be rendered between 1 July and 31 December 2020.

### How to handle permanent supply of services (e.g. rental or leasing agreements)?

In case of permanent supply of services that extends over a longer period of time, the applicable VAT rate depends on whether these supplies qualify as **partial supply of services**.

Partial supply before 1 July 2020	The „old“ VAT rates of 19 % or 7 % apply.
Partial supply between 1 July and 31 December 2020	The „new“ VAT rates of 16 % or 5 % apply.

If the supplies DO NOT qualify as partial supply of services the time of completion of the service is decisive (see above).



**Note:** Respective agreements and “permanent invoices” should be verified and, if necessary, amended accordingly. Otherwise, there is a notable risk of an incorrect invoice which might lead to a liability for “overstated VAT”. However, at the same time it is important to ensure that after the amendment, the respective agreements or “permanent invoices” still fulfil all prerequisites of an invoice to entitle the recipient to deduct input VAT.

### Check your contracts: Long-term contracts

Contracts concluded earlier than four months prior to the decrease of VAT rates may lead to potential conflicts with the other party. If the supply under such a contract is rendered between 1 July and 31 December 2020, the other party may claim compensation for overpaid VAT, if payments were made based on VAT rates of 19 % or 7 % respectively.

Therefore, it is important to review contracts concluded before 1 March 2020, especially tax clauses.

### Effect on input VAT deduction

<p>Input VAT deduction from <b>advance payments</b>; advance payment before 1 July 2020; supply between 1 July and 31 December 2020</p>	<p>A deduction of input VAT re advance payments is permitted in the amount of 19% or 7%, respectively, if separately stated in the invoice. However, the VAT rate in effect applicable to the supply will be 16 % or 5 %. This will generally be shown in the <b>final invoice</b> and this will be the final amount of deductible input VAT. This decrease in deductible input VAT has to be recorded at the latest in the VAT return for the reporting period in which the supply was rendered.</p>
<p>Input VAT deduction from invoices (time of supply between 1 July and 31 December 2020)</p>	<p>Only 16 % or 5 % of the input VAT can be deducted. Should the invoice state VAT of 19 % or 7 %, the invoice is incorrect as regards the difference to 16% or 5%, respectively. The recipient is not entitled to deduct the overstated amount as input VAT.</p>

### What to do if the VAT base subsequently changes?

If between 1 July and 31 December 2020 the VAT base of a supply rendered before 1 July 2020 is subsequently changed, the “old VAT rates” will continue to apply. For this reason, 19 % and 7 % are still decisive as VAT rates when correcting the invoice and the input VAT deduction.



### Increase of VAT rates from 1 January 2021 onwards

The abovementioned principles generally apply mutatis mutandi, when the VAT rates will be increased again to 19 % or 7 % as of 1 January 2021.

#### Exemption: Final invoice

<p>Invoicing between 1 July and 31 December 2020; supply from 1 January 2021 onwards</p>	<p>VAT is to be invoiced with a VAT rate of 16 % or 5 %. However, due to the time of supply from 1 January 2021 onwards, the VAT rate of 19 % or 7 % applies. The remaining VAT due may be added in a "residual invoice". The additional VAT must be recorded in the reporting period in which the supply or partial supply is rendered.</p>
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#### Important note:

The information shown corresponds to the current legal situation and to a draft guidance letter of the Federal Ministry of Finance, dated 12 June 2020. The decrease in VAT rates will be implemented via the "Second Corona Tax Assistance Act", which has not been finally enacted yet. Therefore, also the guidance letter by the Federal Ministry of Finance might be subject to changes.

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