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DATE

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SUBJECT **Temporary reduction in the general and reduced VAT rate effective July 1**

**2020;**

**Draft accompanying BMF letter**

GZ **III C 2 - S 7030/20/10009: 004**

DOK **2020/0610691**

(please specify GZ and DOK when answering)

Referring to the outcome of the discussions with the country's top financial authorities:

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## Lower VAT rate

### **1.1 Temporary reduction of the sales tax rates from 19 percent to 16 percent and from 7 percent to 5 percent as well as the tax rate for agricultural and forestry enterprises according to § 24 Paragraph 1 Clause 1 No. 2 UStG from 19 percent to 16 percent**

- 1 Through Art. X of the Second Law on the Implementation of Tax Aid Measures to Overcome the Corona Crisis of XX. June 2020 - Second Corona Tax Assistance Act - (BGBl. I S. XXX), from July 1, 2020 to December 31, 2020 the general sales tax rate will increase from 19 percent to 16 percent (Section 12 Paragraph 1 in conjunction with Section 28 Paragraph 1 UStG) as well as the reduced VAT rate from 7 percent to 5 percent (section 12 (2) in conjunction with section 28 (2) UStG) as well as within the scope of the average rate taxation according to section 24 UStG for the delivery of certain sawmill products, beverages and alcoholic liquids applicable tax rate (Section 24 Paragraph 1 Sentence 1 No. 2 in conjunction with Section 28 Paragraph 3 UStG) reduced from 19 percent to 16 percent. The changes will take effect on July 1, 2020 (see Art. X Second Corona Tax Assistance Act, loc. Cit.).

### **1.2 Application regulation for changes of the sales tax law (§ 27 Abs. 1 UStG)**

- 2nd Unless otherwise specified, changes to the sales tax law apply to deliveries, other services and intra-community acquisitions that are carried out as soon as the respective amendment comes into force (section 27 (1) sentence 1 UStG). If partial services are provided instead of a total service (section 13 (1) no. 1 letter a sentence 2 and 3 UStG), the application of a change provision (e.g. the reduction and increase in sales tax rates) does not depend on the time of the total service, but on when the individual partial services are carried out.
- 3rd Changes to the sales tax law are to be applied in accordance with § 27 Para. 1 Clause 2 UStG to the deliveries and other services carried out from the entry into force of the respective change regulation as well as the sales tax for them
- e.g. B. in the case of down payments, installments, advance payments, advances - in the cases of actual taxation according to § 13 paragraph 1 No. 1 letter a sentence 4, letter b or § 13b paragraph 4 sentence 2 UStG even before the entry into force of the relevant change regulation has arisen. In these cases, the tax calculation must only be corrected in the pre-registration period in which the service is carried out (Section 27 (1) sentence 3 UStG).

## 2nd Effects of the temporary reduction in VAT rates

### 2.1 Start of application

4th The new sales tax rates of 16 percent and 5 percent are to be applied to deliveries, other services and intra-Community acquisitions that will be effected after June 30, 2020 and before January 1, 2021 (see margin nos. 2 and 3). Decisive for the application of these sales tax rates is always the point in time at which the respective sales are carried out. The point in time of the contractual agreement is of no importance, nor is the point in time when the fee is received or the invoice is issued (see section 12.1 (3) UStAE). The same applies to partial services (see margin no.2) for which margin no. 20 to 26 contain special transitional regulations.

The assessment basis for sales and intra-community acquisitions (as well as deliveries for which the last customer owes the tax in the context of an intra-community triangular transaction) at 16 percent and 5 percent, as well as the associated tax amount, are in the VAT pre-registration for the pre-registration period for the performance in 2020 (Form VAT 1

A) and in the sales tax return for the calendar year 2020 (form VAT 2 A) to be entered in the key figures for sales at other tax rates (lines 28 and 35 of the advance sales tax return or lines 45, 84 and 96 of the sales tax return)<sup>1</sup>. A distinction between sales at the general tax rate and sales at the reduced tax rate is not to be made upon registration.

The assessment basis and the self-determined sales tax for sales for which the service recipient owes the tax in accordance with § 13b UStG are to be recorded in the existing key figures regardless of the applicable tax rate (lines 48 to 50 of the advance sales tax return or lines 99 to 101 of the sales tax return ).

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<sup>1</sup> Special provisions apply to sales of agricultural and forestry operations according to § 24 UStG;

In this respect, reference is made to the revised instructions for pre-registration for VAT 2020.

The sales tax rates of 16 percent and 5 percent also apply to the calculation of the import sales tax (§ 1 Paragraph 1 No. 4 UStG), and for a limited time on imports that are made after June 30, 2020 and before January 1, 2021 .

## **2.2 Treatment for actual taxation**

- 6 In the case of actual taxation (§ 13 Paragraph 1 No. 1 Letter a Sentence 4, Letter b or § 13b Paragraph 4 Sentence 2 UStG), the entrepreneur has fees or partial fees (down payments etc.) for deliveries before July 1, 2020 and other services or partial services received that are carried out after June 30, 2020 and are subject to taxation, the sales tax rates of 16 percent and 5 percent applicable from July 1, 2020 are also to be applied retrospectively to these amounts (§ 27 para. 1 sentence 2 UStG).
- 7 If fees or partial fees for services or partial services received by the entrepreneur before July 1, 2020 are collected after June 30, 2020, the sales tax applicable to these amounts is 19 percent or 30% according to the sales tax rates applicable until June 30, 2020 To calculate 7 percent.

## **2.3 Sales taxation and input tax deduction for the settlement of partial fees received before July 1, 2020 for services performed after June 30, 2020**

- 8th If the entrepreneur issues invoices with a separate tax ID for partial fees that he receives before July 1, 2020 for taxable services or partial services that are carried out after June 30, 2020, these invoices include those that apply until June 30, 2020 VAT rates of 19 percent or 7 percent VAT calculated. Provided the other requirements of § 15 UStG are met, the recipient of the service is entitled to deduct the sales tax shown in the respective invoice as input tax when he has received the invoice and insofar as he has made the requested payment. A correction of the tax statement in these (down payment) invoices is not required if in a final invoice the sales tax for the entire service or partial service with the from 1.

The sales at the tax rates of 16 percent and 5 percent and the tax amount calculated on them are to be entered in total in line 28 of the VAT pre-registration for the pre-registration period for the performance of the service in 2020 or line 45 of the VAT return for the calendar year 2020. This also applies to sales for which a deposit was received before July 1, 2020. Deposits already taxed at 19 percent or 7 percent after the

Revenues executed on June 30, 2020 and before January 1, 2021 must be corrected by adding a negative in line 26 or 27 of the VAT pre-registration for the pre-registration period of the performance in 2020 or line 38 or 41 of the VAT return for the calendar year 2020. Assessment basis is taken into account. An entry in line 62 of the VAT pre-registration for the pre-registration period for the performance of the service in 2020 or line 58 of the VAT declaration for the calendar year 2020 (as negative after-tax) is not necessary.

After receiving the invoice and paying the partial payment, the beneficiary who is entitled to deduct input tax can claim the input tax of 19 percent or 7 percent in line 52 of the advance sales tax return for the relevant advance registration period in 2020 or line 122 of the sales tax return for the calendar year 2020. At the time the service is performed, the input tax amounts in line 52 of the advance sales tax return for the relevant advance registration period in 2020 or line 122 of the sales tax return for the calendar year 2020 are the difference between the tax return according to the final invoice and the input tax already claimed (if applicable, with Minus sign).

- 9 There is no objection to the fact that invoices issued before July 1, 2020 for the partial fees received before that date for taxable services or part services rendered after June 30, 2020 include sales tax after those after June 30, 2020 and VAT rates of 16 percent and 5 percent applicable before January 1, 2021. The sales tax shown is owed by the entrepreneur. The recipient of the service can deduct the specified VAT amount as input tax under the other conditions of § 15 UStG after the invoice has been received and insofar as the invoice amount has been paid. In these cases, a correction to the calculation of sales tax incurred before July 1, 2020 (Section 27 (1) sentence 3 UStG) is ruled out.

## **2.4 Sales taxation and input tax deduction when issuing advance invoices for services performed after June 30, 2020**

### **2.4.1 No remuneration received before July 1, 2020**

10th Der Unternehmer, der über steuerpflichtige Leistungen oder Teilleistungen, die er nach dem 30. Juni 2020 ausführt, vor dem 1. Juli 2020 Vorausrechnungen erteilt, ist nach § 14 Abs. 2 und 4 UStG berechtigt und ggf. verpflichtet, darin die Umsatzsteuer nach den ab 1. Juli 2020 geltenden Umsatzsteuersätzen von 16 Prozent bzw. 5 Prozent anzugeben. Die ausgewiesene Umsatzsteuer entsteht in diesem Falle bei der Besteuerung nach vereinbarten Entgelten mit Ablauf des Voranmeldungszeitraums, in dem die Leistung oder die Teilleistung erbracht wird (vgl. § 13 Abs. 1 Nr. 1 Buchstabe a UStG). Der Leistungsempfänger kann, wenn die übrigen Voraussetzungen des § 15 UStG vorliegen, die ausgewiesene Umsatzsteuer für den Voranmeldungszeitraum als Vorsteuer abziehen, in dem die Leistung oder Teilleistung an ihn ausgeführt wird. Falls bei einer Werklieferung, Werkleistung oder Dauerleistung vor dem 1. Juli 2020 Teilleistungen vereinbart werden, muss eine vorher über die gesamte Leistung erteilte Vorausrechnung entsprechend berichtigt werden (vgl. hierzu Rzn. 20 bis 26).

### **2.4.2 Payment received before July 1, 2020**

11 For a taxable service or partial service that is carried out after June 30, 2020, the entrepreneur issued an advance calculation before July 1, 2020, in which the sales tax after June 30, 2020 and before January 1, 2021 VAT rates of 16 percent or 5 percent are shown, and if he receives all or part of the remuneration before July 1, 2020, the sales tax for these fees will be equal to the sales tax rates of 19 percent or 7 percent applicable before June 30, 2020 . According to § 27 Paragraph 1 Clause 3 UStG, the tax for the pre-registration period of the performance must be corrected. Provided that the other requirements of § 15 UStG are met, the beneficiary is entitled to deduct input tax in the amount shown. There are no concerns if the entrepreneur only calculates and pays the 16 percent or 5 percent sales tax rate applicable after June 30, 2020 and before January 1, 2021 during the pre-registration period for collecting the fee. In these cases, a correction to the calculation of the sales tax incurred before July 1, 2020 for the pre-registration period of the performance is excluded.



**of down payments**

12th According to § 14 Paragraph 5 Clause 2 UStG, the entrepreneur, who within the framework of the actual taxation of down payments (§ 13 Paragraph 1 No. 1 Letter a Clause 4 UStG) has issued a final invoice for a service or partial service performed by him, including the above to deduct the partial fees (down payments) received from the performance of the service or partial service and the sales tax amounts due on them if invoices with a separate tax ID have been issued for these partial fees. If the entrepreneur has received partial fees for a service or partial service performed after June 30, 2020 before July 1, 2020, it must be taken into account when issuing the final invoice that the taxation after June 30, 2020 and before January 1 2021 temporary sales tax rates of 16 percent and 5 percent respectively. For the rest, Section 14.8 Paragraphs 7 to 11 UStAE applies analogously to the issuing of final invoices in these cases. Advance payments already taxed with 19 percent or 7 percent after 30 June 2020 and before

Revenues executed on January 1, 2021 must be corrected by taking into account a negative assessment basis in lines 26 and 27 of the advance sales tax return for the advance return period for the performance of the service in 2020 and line 38 and 41 of the sales tax return for the calendar year 2020. A entry in line 62 of the VAT pre-registration for the pre-registration period for the performance of the service in 2020 or line 58 of the VAT declaration for the calendar year 2020 (as negative after-tax) is not necessary.

**2.6 Tax identification and consideration of the lower sales tax burden for long-term contracts (old contracts)**

**2.6.1 Basics**

13 The entrepreneur is entitled according to § 14 paragraph 2 and § 14a UStG and, if necessary, obliged to issue invoices for services (deliveries, other services and partial services) that are carried out after June 30, 2020, in which the sales tax according to the temporary sales tax rates of 16 percent and 5 percent, respectively, after June 30, 2020 and before January 1, 2021. This also applies if the contracts for these services were concluded before July 1, 2020 and based on the previously applicable sales tax rates (19 percent and 7 percent). However, it does not follow from the regulation on the tax identification that the entrepreneurs are obliged to settle before the

Services agreed on 1 July 2020 to reduce the prices in accordance with the reduced VAT charge that occurred temporarily after 30 June 2020 and before 1 January 2021. Rather, it is a special civil law question, the answer to which depends on the respective contractual and legal situation (see margin nos. 14 and 15).

### **2.6.2 Calculation of sales tax vis-à-vis the service recipient in the case of statutory fees**

- 14 For certain service areas, fees (remuneration, fees, fees, etc.) are prescribed, which do not include the sales tax for the services in accordance with the sales tax law. Such remuneration regulations include in particular the Lawyers' Fees Act (RVG), the Tax Advisers' Fees Ordinance ( StBVV ), the Court and Notary Expenses Act (GNotKG) and the fee schedule for architects and engineers (HOAI). Insofar as the entrepreneurs are entitled in these cases to charge the sales tax owed for the respective service in addition to the stipulated remuneration, they have the sales tax for their services performed after June 30, 2020 regardless of the date of the contractual agreement after the Add the 16 percent sales tax rate applicable before January 1, 2021 to the fee on June 30, 2020 (see section 29.1 (5) UStAE).

### **2.6.3 Claims for compensation of the lower VAT burden (Section 29 Paragraph 2 UStG)**

- 15 According to Section 29 (2) UStG, one part of the contract can demand compensation from the other part of the contract if it performs a service after June 30, 2020. One of the prerequisites for the compensation claim is that the benefit is based on a contract that was concluded before March 1, 2020. The contractual partners must also not have agreed otherwise (e.g. that compensation claims in the event of an increase or decrease in the VAT rate are excluded).

### **2.7 Calculation of VAT and calculation of the assessment bases and reductions in remuneration**

- 16 For invoices within the meaning of §§ 33 and 34 UStDV (invoices for small amounts, tickets and receipts in luggage travel) for services that according to

June 30, 2020 and before January 1, 2021, sales tax can be calculated using the slightly rounded percentage of

13.79 (standard tax rate) or

4.76 (reduced tax rate)

can be calculated from the invoice amounts.

17th For sales generated after June 30, 2020 and before January 1, 2021 that are subject to sales tax at the general sales tax rate of 16 percent, the total amounts of the fees and other assessment bases as well as the fee reductions are

Divisor 1.16

to be calculated from the sums of the recorded gross amounts (e.g. prices and price reductions). When applying the reduced VAT rate of 5 percent, the calculation of the fees and fee reductions from the gross amounts of

Divisor 1.05.

## **2.8 Consequences of excessive tax identification**

18 If the entrepreneur, contrary to the above-mentioned regulations, invoices for services

If, after June 30, 2020 and before January 1, 2021, a higher sales tax than the applicable application of the sales tax rates of 16 percent or 5 percent results, he owes the difference due to an incorrect tax identification according to § 13a para. 1 no.1 i. V. m. Section 14c (1) UStG. A deduction of input tax for the service recipient is not permitted, since the incorrect tax amount is not a legally owed tax within the meaning of § 15 UStG (see section 15.2 (1) sentences 1 to 3 UStAE). The entrepreneur can correct the invoice (Section 31 (5) UStDV). For the special requirements for the correction of an excessively high tax statement, cf. Section 14c.1 (5) UStAE.

### **3rd Transitional arrangements**

#### **3.1 General**

19th In order to facilitate the transition to the application of the new sales tax rates applicable after June 30, 2020 and before January 1, 2021, special transitional provisions are made in the following paragraphs 3.2 to 3.10 (margin nos. 20 to 45). The facilities and procedures permitted by this can be used by all entrepreneurs for whom they apply. Approval by the responsible tax office is not required.

#### **3.2 Deliveries and services**

##### **3.2.1 Fundamentals**

A total of 20 deliveries or services are subject to taxation

16 percent or 5 percent sales tax rates if executed after June 30, 2020 and before January 1, 2021.

Another VAT treatment is only considered if deliveries and services can be divided economically and are performed in partial services (see margin nos. 21 and 22).

##### **3.2.2 Execution and billing of partial services**

21 Partial services are economically delimitable parts of uniform services (e.g. work deliveries and work services) for which the remuneration is agreed separately and which are therefore owed instead of the uniform overall service. For the recognition and delimitation of partial services cf. Section 13.4 UStAE. The partial sales tax rates up to June 30, 2020 of 19 percent and 7 percent, respectively, apply to partial services rendered before July 1, 2020. Partial services performed after June 30, 2020 and before January 1, 2021 are subject to the temporary sales tax rates of 16 percent and 5 percent, respectively.

22 Partial services rendered before July 1, 2020 are available if the following requirements are met:

1. It must be an economically delimitable part of a work delivery or work performance.
2. If the power part is part of a delivery, it must have been accepted before July 1, 2020; if it is part of a work, it must have been completed or completed before July 1, 2020.
3. Before July 1, 2020, it must be agreed that the corresponding partial fees must be paid for parts of a work delivery or work performance. If no partial fees have been agreed separately for parts of a work delivery or work performance, the contractual agreement must be changed accordingly before July 1, 2020.
4. The partial fee must be billed separately.

Invoices have already been issued for permanent services that started after June 30, 2020 and before January 1, 2021 and end after January 1, 2021, in which the total remuneration or the total price and the total after June 30, 2020 and VAT calculated before January 1, 2021 to be applied, they can be corrected accordingly before January 1, 2021.

### **3.3 Permanent benefits**

#### **3.3.1 Basics**

- 23 The reduction in VAT rates has an impact, in particular for services that extend over a longer period (continuous services), provided that the time when the change in VAT rate comes into force falls within the period agreed for the service. The permanent services can be both other services (e.g. rentals, leasing, maintenance, monitoring, ongoing financial and payroll accounting) as well as the entirety of several deliveries (e.g. of building materials). Different periods (e.g. ½ year, 1 year, 1 calendar year, 5 years) or no time limit are agreed for permanent services.

24th Permanent services are carried out:

1. in the case of another service on the day on which the agreed service period ends (section 13.1 (3) UStAE),
2. In the case of recurring deliveries - with the exception of deliveries of electrical power, gas, water, waste water, cold and heat (see margin no. 35) - on the day of each individual delivery (section 13.1 (2) UStAE).

Auf Dauerleistungen, die hiernach vor dem 1. Juli 2020 erbracht werden und die der Umsatzbesteuerung unterliegen, sind die bis zum 30. Juni 2020 geltenden Umsatzsteuersätze von 19 Prozent bzw. 7 Prozent anzuwenden. Nach dem 30. Juni 2020 und vor dem 1. Januar 2021 ausgeführte Dauerleistungen sind der Besteuerung nach den Umsatzsteuersätzen von 16 Prozent bzw. 5 Prozent zu unterwerfen. Bei der Abrechnung von Nebenleistungen, für die ein anderer Abrechnungszeitraum als für die Hauptleistung vereinbart ist, richtet sich die Anwendung des zutreffenden Umsatzsteuersatzes nach dem Zeitpunkt der Ausführung der jeweiligen Hauptleistung (z. B. monatlicher Zins für eine steuerpflichtige Vermietung mit monatlichem Abschlag für die Nebenleistungen und jährlicher Abrechnung der Nebenleistungen).

Contracts for permanent services that are to be regarded as an invoice (section 14.1 (2) UStAE) are to be adjusted to the sales tax rates applicable after June 30, 2020 and before January 1, 2021. Attention is drawn to the regulation of § 31 Abs. 1 UStDV. It is therefore sufficient to amend a contract by means of supplementary documents that contain all the necessary information regarding the remuneration and tax rate for the period from July 1, 2020 to December 31, 2020 with reference to the contract. A contract adjusted as a result of the lowering of the sales tax rate must contain all the mandatory information required by section 14 (4) of the UStG for the purposes of the recipient's input tax deduction in accordance with section 15 (1) sentence 1 no. 1 UStG.

### **3.3.2 Execution and billing of partial services**

25 If a continuous performance is not total for the agreed performance period, but billed for shorter periods (e.g. quarterly, calendar month), partial services are available in the sense of § 13 Paragraph 1 No. 1 Letter a Sentence 3 UStG. This also applies to permanent, unlimited benefits insofar as these are billed for certain periods. Partial services are also to be recognized if, in addition to the total remuneration, the invoice includes a shorter service section

omitted partial amount is specified and it is left to the recipient of the service to pay the total fee or partial fees. The application of the applicable sales tax rate depends on the time of execution of the respective partial service, for which the same principles apply as for the time of the continuous service itself (see margin no. 24).

26 If, for a continuous service, e.g. B. for the period from January 1, 2020 to

If a shorter billing period (e.g. calendar quarter) was agreed before December 1, 2020 before July 1, 2020, partial services that are relevant under VAT law must be recognized. It is particularly to be seen as an agreement for a shorter billing period if, in an invoice issued before July 1, 2020, the fee or the price for this billing period is specified - if applicable in addition to the total fee or price.

### **3.4 Changes to the assessment bases**

#### **3.4.1 Reductions and increases in pay (general)**

27 If after 30 June 2020 there is a reduction or increase in the assessment basis for taxable turnover executed before 1 July 2020 within the meaning of section 1 (1) no.1 UStG, taxable intra-Community acquisition within the meaning of section 1 (1) no. 5 UStG (e.g. through a cash discount, discount or other price reduction or through subsequent calculation), the entrepreneur who carried out this turnover must correct the tax amount owed for it in accordance with Section 17 (1) sentence 1 UStG. In cases where the beneficiary's tax liability is applied according to § 13b UStG, the beneficiary has to correct the tax amount. In the case of taxation based on agreed fees as well as in the case of taxation based on received fees, the June 2020 applicable sales tax rate of 19 percent or 7 percent. The same applies to the correction of the input tax deduction.

28 A tax correction in accordance with Section 17 (1) UStG is ruled out if the fees for non-taxable and tax-free sales change subsequently. If the entrepreneur carries out sales that are subject to different tax rates, the sales tax is to be corrected according to the sales tax rate that was applicable to the respective underlying sales in the event of a subsequent change in the assessment basis. In practice, this may require undue work. To simplify matters, subsequent changes to the assessment bases for sales executed before July 1, 2020 are permitted according to the ratio between

the sales subject to the various tax rates as well as the tax-free and non-taxable sales of the pre-registration period in which the changes in the assessment basis actually occurred (see also section 22.6 paragraphs 20 and 21 UStAE). The same applies to the correction of input tax deduction.

### 3.4.2 Redeeming discount and reimbursement vouchers

- 29 If an entrepreneur remunerates discount and reimbursement vouchers issued by him, which enable a final customer to purchase services at a reduced price for the nominal value of the discount and reimbursement voucher, this can in principle lead to a reduction in the assessment basis for the entrepreneur (see section 17.2, paragraph 4 UStAE). If there is a reduction in remuneration for a taxable service, the entrepreneur must correct the sales tax owed for it in accordance with Section 17 (1) UStG. The sales tax rate results from the delivery for which the discount and reimbursement voucher has been redeemed (section 17.2 (4) UStAE). The distribution of the redemption amounts required for this before July 1, 2020 and after 30 Experience has shown that sales executed in June 2020 are difficult in practice. It is therefore permitted to make the tax adjustment using the following simplified procedure:

If the entrepreneur reimburses the discount and reimbursement vouchers issued by him from July 1, 2020 to August 31, 2020, the sales tax must be corrected according to the sales tax rates applicable until June 30, 2020 of 19 percent. For the refund of discount and reimbursement vouchers after August 31, 2020 and before January 1, 2021, the sales tax must be corrected according to the general sales tax rate applicable from July 1, 2020 of 16 percent and 5 percent, respectively. This simplification applies accordingly to sales subject to the reduced tax rate.

If, in these cases, another entrepreneur benefits economically from the change in the assessment basis, this entrepreneur has to correct his input tax deduction (section 17 (1) sentence 4 UStG). In this respect, the aforementioned simplification rule does not apply.

This does not affect the regulations in Section 22.6 Paragraphs 20 and 21 UStAE (see also margin no.28) to facilitate the separation of subsequent price reductions.



30th The value added tax assessment of vouchers was effective as of Newly regulated on January 1, 2019. For single-use vouchers i. S. d. Section 13 (13) and (14) UStG is the decisive point in time for the taxation of the fiction of performance and thus the determination of the applicable VAT rate when the issuing entrepreneur issues the voucher to the customer. The conditions at the time the voucher is issued are therefore decisive. If the conditions change afterwards, this is irrelevant. The later redemption of vouchers is no longer relevant for VAT assessment, as this is not considered independent sales. However, should the voucher holder make an additional payment when redeeming the single-use voucher, the previously untaxed difference is taxable according to the sales tax rates applicable at the time the voucher was redeemed.

#### **3.4.4. Refund of deposits**

31 If an entrepreneur takes back empties and reimburses a deposit paid for this, there is a reduction in remuneration. The entrepreneur has to correct the sales tax owed according to § 17 Paragraph 1 UStG. In order to avoid difficulties, the tax correction is permitted to be carried out using the following simplified procedure:

The entrepreneur reimburses deposit amounts in the period from July 1, 2020 to September 30, 2020, the sales tax, insofar as the underlying sales are subject to the general tax rate, is to be adjusted according to the general tax rate of 19 percent applicable until June 30, 2020. When refunding deposit amounts after September 30, 2020, the sales tax must be corrected according to the general tax rate of 16 percent applicable from July 1, 2020. In the three-month period, it is assumed that the inventory of goods enclosures changes four times a year. In the case of shorter or longer handling periods, the period during which the fee reductions must still be taken into account at the tax rate of 19 percent must be shortened or extended accordingly, the average handling period being determined in the manner between the entrepreneur and the tax office. For sales,

### 3.4.5 Granting annual bonuses, annual reimbursements and the like

32 The reduction in sales tax rates as of July 1, 2020 must also be taken into account when correcting the tax and input tax amounts in accordance with Section 17 (1) UStG if the fees for the services performed in a year are combined (e.g. through annual reimbursements, annual bonuses, Loyalty discounts and the like) are reduced and this annual period started before July 1, 2020 and ends after June 30, 2020 (e.g. from January 1, 2020 to December 31, 2020). Insofar as the joint fee reductions are granted for the sales executed up to June 30, 2020, the sales tax rates of 19 percent and 7 percent are to be used as a basis when applying Section 17 (1) UStG. On the share of the collective wage reductions that affect sales after

June 30, 2020 (e.g. from July 1, 2020 to December 31, 2020), the sales tax rates of 16 percent and 5 percent are also applicable for tax and input tax adjustments. Pursuant to Section 17 (4) UStG, the entrepreneur has to provide the beneficiaries concerned with a document showing how the joint fee reductions are distributed over the sales in the two periods in accordance with the applicable tax rates.

To simplify matters, the following can be used to distribute the common fee reductions:

**1. The entrepreneur determines the relationship between his taxable persons**

Turnover of the pro rata season periods before and after the cut-off date of July 1, 2020. According to this ratio, he divides the joint fee reductions that he grants to the individual beneficiaries for the year beyond July 1, 2020.

**2nd The entrepreneur's sales are partly subject to the general, partly to the**

reduced tax rate, the relationship between the non-beneficiary and the beneficiary sales is determined either for the entire annual period beyond July 1, 2020 or for the two prorated periods separately. The entrepreneur distributes the joint price reductions granted to the individual beneficiaries according to this sales ratio across the various tax rates.

**3rd Annual reimbursement for the entire calendar year 2020 can be 50 percent**

(January to June) with 7 percent or 19 percent and 50 percent (July to

December) with 5 percent or 16 percent, regardless of when the underlying sales were carried out.

When correcting the input tax deduction, the recipient of the service must assume the distribution of the common fee reductions among the various tax rates that the entrepreneur has undertaken and specified in the document to be issued pursuant to Section 17 (4) UStG.

- 33 There is also no objection if an entrepreneur refrains from dividing the joint fee reductions and uses the tax adjustment pursuant to Section 17 (1) sentence 1 UStG without exception at the general tax rate of 19 percent. The beneficiary must then proceed accordingly when correcting the input tax deduction in accordance with section 17 (1) sentence 2 UStG.

### **3.5 Taxation of telecommunications services**

- 34 Telecommunication services (e.g. telephone services) are to be included in the permanent services if they are based on contracts that are concluded for an indefinite period or for a minimum period (usually between six and 24 months) and provide for periodic billing periods. According to margin no. In these cases, partial services must be recognized that are deemed to have been rendered at the end of the agreed billing period. If July 1, 2020 falls within the agreed billing period, there is no objection to setting up an additional billing period that ends on June 30, 2020.

### **3.6 Taxation of electricity, gas, water, cold and heat deliveries as well as waste water disposal**

- 35 The deliveries or other services of electricity, gas, water, sewage disposal (unless sovereignly organized), cooling and heating by utilities to customers are billed according to meter reading periods (e.g. quarterly). If the meter reading periods end after June 30, 2020 and before January 1, 2021, deliveries for the entire meter reading period must be subject to the sales tax rates of 16 percent and 5 percent applicable from July 1, 2020. As far as meter reading periods end after December 31, 2020, deliveries of the entire meter reading period are to be subject to the sales tax rates of 19 percent and 7 percent, respectively. Will be after

June 30, 2020 and deliveries made before January 1, 2021 are billed separately, sentences 2 and 3 apply accordingly to the shortened billing periods. In terms of VAT, there are no concerns about making these separate customer bills in such a way that the results of the meter reading periods, which normally end after June 30, 2020 and / or before January 1, 2021, are in the ratio of the days before and from the 1st July 2020. For meter reading periods that normally end after December 31, 2021, the separate statements can be made in the ratio of the days before and from January 1, 2020. If the reading period is longer than three months, the utility company must always carry out a weighting when dividing up, so that the differences in consumption in the periods before and from the key date are taken into account accordingly. If there are no significant differences in consumption, the weighting can be dispensed with.

36 To avoid transition difficulties, the tax authorities can, upon request, allow a simplified accounting procedure for those utilities that use a direct manual collection procedure for their customers. If, in this collection procedure, customers with the same meter reading periods are read at different times and the meter reading periods are distributed differently around July 1, 2020, an average meter reading time can be formed to compensate for the different meter reading times for the last meter reading before July 1, 2020.

37 Invoices to customers are to be issued in accordance with the results determined in accordance with the above principles. Subsequent remuneration adjustments as well as changes in the distribution of deliveries made in accordance with the above principles are to be taken into account for VAT purposes.

In order to avoid transition difficulties, there will be no objection to invoices for interim payments made after June 30, 2020 and before

Due on January 1, 2021, will not be corrected, provided that sales tax of 19 percent or 7 percent is paid accordingly and is only correctly accounted for in the final statement in accordance with the above principles. For reasons of equity, there will be no objection if customers entitled to input tax deduction claim a deduction of input tax on the basis of 19 percent or 7 percent and the input tax deduction for the entire service only on the basis of the above final invoice in analogous application of margin no. 8 is corrected to the permissible value.

### **3.7.1 Passenger transport by rail, regular motor vehicles and trolleybuses**

- 38 Revenue from the sale of single tickets and season tickets that are valid until the end of the last operating day of June 2020 (the operating day June 30, 2020 often ends after midnight), the sales tax rates of 19 percent and 7 percent applicable until June 30, 2020 can still be applied.
- 39 Income generated from sales of tickets for transport services before July 1, 2020 can, if the validity period of the tickets exceed June 30, 2020, be apportioned to services performed before July 1, 2020 and after June 30, 2020 become.
- 40 The regulations of the BMF letter of January 21, 2020 (BStBl I p. 197) apply accordingly with regard to passenger transport by rail.

### **3.7.2 Passenger transport by taxi and in rental car traffic**

- 41 Taxi and rental car companies can subject the earnings for night shift transportation from June 30, 2020 to July 1, 2020 to the sales tax rates applicable from July 1, 2020. This does not apply if invoices are issued in which the sales tax is shown in the amount of the sales tax rates applicable until June 30, 2020.

### **3.8 Taxation of sales of sales representatives**

- 42 The service of the commercial agent is subject to the general sales tax rate of 16 percent applicable from July 1, 2020, if the remuneration agreement is based on §§ 87 ff HGB, if the represented entrepreneur (client) delivers or delivers the service to the customer after the 30th June 2020.

### **3.9 Taxation of sales by brokers**

- 43 The performance of the broker is carried out at the time the final grade is given (§ 94 HGB). If the final grade is given after June 30, 2020, the general sales tax rate of 16 percent applicable from July 1, 2020 must be applied to the placement service.

### **3.10 Taxation of sales in the hospitality sector when changing to the lower sales tax rates**

- 44 In order to avoid transition difficulties, it is permitted that hospitality services (e.g. delivery of food and beverages for consumption on the spot, deliveries of tobacco products, etc.) in the night from June 30, 2020 to July 1, 2020 in restaurants, hotels, Clubhouses, sausage stands and similar establishments that apply sales tax rates of 5 or 16 percent applicable from July 1, 2020. This does not apply to accommodation and the related services.

### **3.11 Exchange of items**

- 45 When an item is exchanged, the original delivery is canceled. A new delivery takes its place. If an item delivered before July 1, 2020 is exchanged after that date but before January 1, 2021, the delivery tax rate of 16 percent or 5 percent applicable from July 1, 2020 applies to the delivery of the replacement item.

### **3.12 Too high VAT ID in the chain of entrepreneurs**

Has the performing entrepreneur for one after 30 June 2020 and before  
On August 1, 2020, services rendered to another entrepreneur are shown on the invoice at the tax rate applicable before July 1, 2020 (19 percent instead of 16 percent or 7 percent instead of 5 percent) and this tax amount is paid, for reasons of simplification, there will be no objection if the entrepreneur does not correct the VAT ID in the invoices. For reasons of practicability, a beneficiary entitled to deduct input tax will receive incorrect invoices from § 14c (1) UStG for invoices according to

June 30, 2020 and performance rendered by an entrepreneur before August 1, 2020 is subject to input tax deduction based on the reported tax rate. For sales for which the service recipient owes the tax according to § 13b UStG, this applies accordingly to the tax calculated by the service recipient.

**4th VAT rates increased as of January 1, 2021**

46 Unless otherwise agreed below, the aforementioned regulations apply accordingly for the increase in sales tax rates from 16 percent to 19 percent and from 5 percent to 7 percent as of January 1, 2021.

**47 Treatment for actual taxation**

According to Section 27 Paragraph 1 Sentence 3 UStG, the additional sales tax owed for the fees and partial fees received before January 1, 2021 must be calculated and paid for the pre-registration period in which the service or partial service is carried out. In addition, to simplify matters, the additional sales tax owed for the partial fees received before January 1, 2021 is calculated and paid for the pre-registration period in which the remaining fee is collected. The entrepreneur collects the remainder after the

December 31, 2020 in several installments, he can calculate and pay the sales tax, insofar as it still applies to the installments received before January 1, 2021, for the pre-registration period in which the last installment is collected.

**48 Redeeming discount and reimbursement vouchers**

Margin 29 applies accordingly to the increase in sales tax rates as of January 1, 2021. Experience has shown that the distribution of the redemption amounts between sales carried out before January 1, 2021 and sales after December 31, 2020 is difficult in practice. It is therefore permitted to make the tax adjustment using the following simplified procedure:

If the entrepreneur reimburses the price reduction and reimbursement vouchers issued by him between January 1, 2021 and February 28, 2021, the sales tax must be adjusted according to the tax rate of 16 percent applicable until December 31, 2020. If vouchers are reimbursed after February 28, 2021, the sales tax at the general tax rate applicable from January 1, 2021 is

Correct 19 percent. This simplification applies accordingly to sales subject to the reduced tax rate.

#### **49 Refund of deposits**

Margin 31 applies accordingly to the increase in sales tax rates as of January 1, 2021. In order to avoid difficulties, the tax adjustment is permitted to be carried out according to the following simplified procedure:

The entrepreneur reimburses deposit amounts in the period from January 1, 2021 to March 31, 2021, sales tax is to be adjusted in accordance with the general tax rate of 16 percent applicable until December 31, 2020. When refunding deposit amounts after March 31, 2021, the sales tax must be corrected according to the general tax rate of 19 percent applicable from January 1, 2021. In the three-month period, it is assumed that the inventory of goods enclosures changes four times a year. In the case of shorter or longer handling periods, the period in which the fee reduction is still to be taken into account at the tax rate of 16 percent must be reduced or extended accordingly, whereby the average handling period must be determined in the manner between the entrepreneur and the tax office. This simplification applies accordingly to sales subject to the reduced tax rate.

#### **50 Sales taxation and input tax deduction for the settlement of partial fees that are received before January 1, 2021 for services performed after December 31, 2020**

For taxable services or partial services that are carried out after December 31, 2020 and for which down payment invoices are issued after June 30, 2020 and before January 1, 2021 with separate tax identification, the sales tax in the settlement of the partial fee is based on the sales tax rate of 16 percent or 5 percent. A correction of the tax statement in these invoices is not required if the final invoice shows the sales tax for the entire service or partial service according to the tax rate of 7 percent or 19 percent applicable from January 1, 2021 or in a final invoice that for the before January 1, 2021 received partial payments owed additional sales tax (two percentage points for the reduced tax rate, three percentage points for the regular tax rate) must also be given (see margin no.12). The additional sales tax, which is due on the partial payment received in advance, is generally to be registered and paid for the pre-registration period in which the service or



Partial service is rendered (see margin no.6). To this extent, the input tax deduction can be claimed by the service recipient as soon as the service has been carried out and the final invoice is available. Will the tax statement appear on the invoices issued for the partial remuneration received before January 1, 2021 after

31 December 2020 corrected due to the increase in sales tax rates, the corrections to the sales tax owed for the partial fees and, if applicable, the input tax deduction for the pre-registration period in which the entrepreneur corrects the tax ID are to be made. In principle, this also applies if the entrepreneur makes a claim for compensation in accordance with § 29 Para. 2 UStG at the same time as the correction of the tax ID and recalculates the additional VAT amount. In this case, a further correction of the VAT calculation and input tax deduction is required if the amount subsequently calculated is paid later, rather than in the pre-registration period for the tax ID correction.

51 **Sales tax and input tax deduction for the provision of advance invoices for services performed after December 31, 2020**

**No payment received before January 1, 2021**

The statements under margin no. 10 apply accordingly to advance calculations that are issued before January 1, 2021 and for which the service is rendered after December 31, 2020, in which case the sales tax must be stated according to the sales tax rates of 19 percent and 7 percent, respectively.

**Sales tax calculation and calculation of the assessment bases and fee reductions**

From 1 January 2021, the standard tax rate of 19 percent will apply to the increase in sales tax rates

Divisor 1.19

and for the reduced tax rate the

Divisor 1.07.

52 **Changes in the assessment bases**

If a reduction or increase in the tax base occurs for a before January 1, 2021 taxable turnover executed within the meaning of section 1 (1) no.1 UStG, taxable intra-Community acquisition within the meaning of section 1 (1) no.5 UStG or taxable turnover within the meaning of section 13b UStG (e.g. by cash discount, discount or other price reduction or by subsequent calculation), apply

Margin 27 and 28 for the increase in sales tax rates as of January 1, 2021, respectively.

This letter will be published in the Federal Tax Bulletin Part I and is now available for download for a transition period on the website of the Federal Ministry of Finance (<http://www.bundesfinanzministerium.de>) under the heading Taxes - Publications on Tax Types - Sales Tax.

On behalf

ENTWURF