

# FISCONET *plus*



TAXATION / Value added tax / Administrative guidelines and comments / Flyers

## Circular 2020 / C / 86 on the temporarily reduced VAT rate of 6% for some restaurant and catering services

*This circular comments on the temporary introduction of the VAT rate of 6% for certain restaurant and catering services as a measure aimed at contributing to the fastest possible economic recovery of the catering sector after the mandatory closure of catering establishments due to the pandemic of the virus COVID-19.*

*This tariff reduction was introduced by the Royal Decree of 08.06.2020 amending Royal Decree 20 of 20.07.1970 determining the rates of value added tax and classifying the goods and services with those rates by with regard to measures in support of the catering industry (BS of 12.06.2020).*

*B tw rate; restaurant and catering services; measure to assist the catering industry after the compulsory closure of establishments due to the pandemic of the virus COVID-19*

FOD Finance, 29.06.2020  
General Administration of Taxation - Value Added Tax

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### 1. Legal provision

In order to ensure the fastest possible economic recovery of the catering industry after the compulsory closure of catering establishments due to the pandemic of the virus COVID-19, a royal decree of 08.06.2020 (BS of 12.06.2020), the Royal Decree No 20 of 20.07.1970 on VAT rates, an [Article 1ter / 1](#) is inserted, reading:

*Art. 1ter / 1. Notwithstanding Article 1, are subject to the reduced rate of 6 pc. until 31 December 2020, the restaurant and catering services, excluding the provision of beers with an actual alcoholic strength of more than 0.5% vol. and other drinks with an actual alcoholic strength by volume exceeding 1.2% vol. "*

The beers and other drinks referred to in fine of the aforementioned Article 1ter / 1, which are also mentioned in the *fine* exclusion of heading X of Table A of the Annex to the aforementioned [Royal Decree No 20](#) , are hereinafter referred to as 'alcoholic drinks' mentioned.

All other drinks that are provided in conditions for on-site consumption and that are not excluded from the temporary rate reduction as a restaurant or catering service (or as part of a restaurant or catering service) in the aforementioned Article 1ter / 1 are hereinafter referred to as ' non-alcoholic drinks ' mentioned.

Moreover, the simple supply of non-alcoholic drinks is not excluded from heading X of Table A of the Annex to the aforementioned Royal Decree No 20 and therefore remains subject to the VAT rate of 6%.

### 2. Actions for which the VAT rate is temporarily reduced to 6 %

The intended transactions, for which the applicable VAT rate is reduced to 6 % until 31.12.2020 , are not deliveries within the meaning of Article 10 of the VAT Code, but certain restaurant and catering services, as referred to in Article 18, § 1, second paragraph, 11 ° of the VAT Code.

More specifically, it concerns :

- 1. the provision of food in restaurants and cafes and, more generally, in conditions of on-site consumption. These are restaurant and catering services that are referred to in Section I of Table B of the Annex to Royal Decree No. 20 on VAT rates and were therefore previously subject to the rate of 12% ( **temporary rate reduction now from 12% to 6 %** )
- 2. the provision of non-alcoholic drinks in restaurants and cafes and, more generally, in on-site consumption conditions. These are restaurant and catering services that are excluded from the 12% rate in section I of the aforementioned Table B and were therefore previously subject to the 21% rate ( **temporary rate reduction now from 21% to 6%** )
- 3. the simultaneous provision, in the course of a single service, of both food and non-alcoholic drinks in restaurants and cafés and, more generally, in conditions for on-site consumption ( **temporary tariff reduction now, as regards food, from 12% to 6% and as regards non-alcoholic drinks, from 21% to 6%**  ).



### RELATED DOCUMENTS

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### CHARACTERISTICS

**Title:** Circular 2020 / C / 86 on the temporarily reduced VAT rate of 6% for some restaurant and catering services

**Summary:** This circular comments on the temporary introduction of the 6% VAT rate for certain restaurant and catering services as a measure aimed at contributing to the fastest possible economic recovery of the catering sector after the mandatory closure of catering establishments due to the pandemic of the virus COVID-19. This tariff reduction was introduced by the Royal Decree of 08.06.2020 amending Royal Decree 20 of 20.07.1970 determining the rates of value added tax and classifying the goods and services with those rates by with regard to measures in support of the catering industry (BS of 12.06.2020).

**Keywords:** [temporary measure](#), [catering](#), [rate of the VAT](#), [reduced rate VAT](#), [coronavirus](#), [Covid-19](#), [VAT rate of 6%](#), [restaurant and catering services](#)

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The provision of alcoholic beverages in restaurants and cafes and, more generally, in on-site consumption conditions is thus a restaurant or catering service which, as before, continues to be subject to the standard VAT rate of 21%, regardless of whether whether or not one of the three services referred to in the previous paragraph are also provided to the customer (services that then form part of the broader restaurant or catering service and which - in contrast to the alcoholic beverages provided simultaneously - are eligible for the rate reduction to 6%).

The nature or name of the establishment that provides the restaurant or catering services is not relevant. It may therefore include the following service providers and sites:

- fast food and self-service restaurants
- restaurants in theaters (clubs ...), musea en winkelcentra
- canteens and company knives
- hotels or guest rooms with half or full board
- cafeterias , bars, inns, tea rooms and discotheques
- foodtrucks , snackbarauto's
- caterers , bakeries with consumption salons
- temporary stands for sale or consumption during a festival, at a market, a fair.

This includes restaurant and catering services provided by specialist caterers or by the operators of the above establishments.

**3. Importance of the classification of the act with regard to the food and / or drinks provided, either as a delivery (art. 10, VAT Code) or as a service (art. 18, § 1, second paragraph, 11 °, VAT Code)**

Taking into account the aforementioned temporary tariff reduction, the provision of food, the provision of non-alcoholic drinks and the joint supply of food and non-alcoholic drinks are currently always subject to the reduced rate of 6%, regardless of whether the food and / or non-alcoholic drinks provided are the object of the be a supply within the meaning of Article 10 of the VAT Code or of a service within the meaning of 18, § 1, second paragraph, 11 °, of the VAT Code (1).

*(1) An exception is made for certain fish, crustaceans and molluscs for human consumption, which are subject to the VAT rate of 21% when they are the subject of a delivery within the meaning of Article 10 of the VAT Code ( eg caviar and caviar substitutes and crawfish and lobsters which are explicitly excluded from the rate of 6% in Section III of Table A of the Annex to the aforementioned Royal Decree No. 20).*

On the other hand, alcoholic drinks are always subject to the normal VAT rate of 21%, regardless of whether those drinks are the subject of a supply within the meaning of Article 10 of the VAT Code or of a service within the meaning of 18, § 1, second paragraph, 11 °, of the VAT Code.

The VAT classification of the transaction relating to the provision of food and / or drinks (classification as either delivery or service) nevertheless remains important for the rules governing the location of the transaction and for the obligations relating to the registered cash register system .

In view of that distinction, further account should be taken of the previously published comments regarding the concept of restaurant and catering services and the delineation of those services with regard to the mere supply of food and / or drinks (see point 2 of the [circular 2019 / C / 26](#) of 04/04/2019 and point 2.5.2. of the [circular 2017 / C / 70](#) of 6.11.2017, however, with the exception of the provision of the first paragraph of marginal 2.5.2.8. of the latter circular, hereinafter is updated in marginal 4).

**4. Qualification and tariff of prepacked food for consumption on the spot**

The first paragraph of marginal 2.5.2.8. of the circular 2017 / C / 70 of 06.11.2017, will be definitively removed as a result of the entry into force of the aforementioned Article 1ter / 1.

In other words, providing pre-packaged products, such as a pack of crisps, a bar of chocolate, a sausage, an ice cream, pre-packaged cheese or salami cubes, in on-site consumption conditions qualifies as a restaurant or catering service for the purposes of the reduced rate of 6% of the aforementioned Article 1ter / 1.

In view of its qualification as a restaurant or catering service, the turnover generated by the provision of those pre-packaged products in conditions for consumption should be included in the calculation of the threshold of 25,000 euros that determines the obligations regarding the registered cash register system.

The foregoing means that, from now on, taxable persons required to use a registered cash register system must issue a ticket from such a system for the provision of prepackaged products whether or not they are consumed locally. Taxable persons who are not obliged to use a registered cash register system must, as far as they are concerned, have an invoice or receipt referred to in Article 22, § 1, first paragraph, 2 °, of the Royal Decree No. 1 of 29.12.1992 to the Value Added Tax Scheme for the provision of pre-packed products when they are intended for consumption on the spot.

**5. Provided by undertakers of food and drink for consumption on the spot - Rate**

Although the provision by the funeral directors of food or drink for consumption on the spot, in item 2 of heading XXXIV of Table A, is expressly excluded from the Annex to the aforementioned Royal Decree No. 20, that service may be reduced from 08.06.2020 rate of 6% of the aforementioned Article 1ter / 1, of course only to the extent that it does not relate to alcoholic drinks.

**6. Provide breakfast under furnished accommodation - Tariff**

The restaurant service in the form of a breakfast provided by a hotelier to his guests in the context of furnished accommodation provided to his guests by that hotelier may further benefit in full from the reduced rate of 6% in accordance with item 1 of heading XXX of Table A, of the annex to the aforementioned Royal Decree No. 20.

## 7. Adjustment of the registered cash register system and of the accounts or receipts

Due to the reduced VAT rate of 6% for the restaurant and catering services referred to in Article 1ter / 1, an adjustment is required on the one hand in the programming of the registered cash register system and on the other in the account or receipt (VAT receipt) that is customer must be handed out.

As regards registered cash register systems, the programming will have to be adapted as soon as possible to take into account the reduction of the VAT rate from 12% to 6% for the restaurant and catering services and from 21% to 6% for the non-alcoholic drinks. . Attention is drawn to the fact that commonly used codes, in particular 'A' for the 21% rate, "B" for the 12% rate, "C" for the 6% rate, and "D" for the 0% rate, do not need to be adjusted. Only the distribution of the supplies of goods and of the services provided over the different rates must be adjusted (depending on the applicable rate). Pending this adjustment, a posteriori recalculation of the VAT due - at the rate of 6% instead of at the rates of 12% or 21% as appropriate - can be performed (for example by the accountant) forthe period from 08.06.2020 to the effective adjustment of the registered cash register system and this on the basis of the data registered in the system (including daily reports). It goes without saying that, with regard to this recalculation, sufficient evidential and detailed data for audit purposes must be kept for the period of the statutory retention of seven years referred to in Article 60, § 4, of the VAT Code.

The accounts and receipts referred to in Article 22, § 1, first paragraph, 2 °, of the aforementioned Royal Decree No. 1, which do not contain the pre-printed box for the rate of 6% must be adjusted manually by specifying “12%”. cross out and replace with “6%”. Since the reduced VAT rate of 6% is a temporary measure until 31.12.2020, there is no reason to order new receipt booklets that contain a new box for the 6% rate.

## 8. Period of application of the temporary rate reduction

The reduced VAT rate of 6% of the aforementioned Article 1ter / 1 applies to the restaurant and catering services envisaged in that Article for which the tax becomes due in the period from 08.06.2020 (date of entry into force of the rate reduction) up to and including 31.12.2020.

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