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Sales tax newsletter 28 | 2020

BMF: Flat-rate for the distribution of total sales prices in the catering and hotel industry

Published on July 7, 2020

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1 background

According to the Corona Tax Assistance Act, the reduced tax rate for the consumption of food on the spot applies for the period from July 1, 2020 to June 30, 2021 (see Newsletter 16 | 2020). On June 29, 2020, the Federal Council also approved the Corona Tax Assistance Act, according to which the standard tax rate will be reduced from 19% to 16% and the reduced tax rate from 7% to 5%. The reduced tax rates apply for the period from July 1, 2020 to December 31, 2020 (see KMLZ VAT Newsletter 18 | 2020 and 23 | 2020).

The question subsequently arose for the catering trade as to how the remuneration for the total sales prices for food and beverages (so-called combination offers) should be apportioned in relation to the current tax rates (e.g. buffet including drinks, menu including Wine accompaniment). Similar practical problems arise for accommodation companies, which have to split the flat rate for accommodation (reduced tax rate) and breakfast (standard tax rate) separately according to tax rates.

2 Flat rate for total sales prices in the catering trade

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Entrepreneur also sells the food and beverages sold as part of the total sales price individually. However, the breakdown by retail price cannot lead to appropriate results if there are no retail prices. This problem exists e.g. B. with free refill offers for part of a buffet, for which there are regularly no retail prices.

According to the BMF letter dated 02.07.2020, the tax authorities do not object to the temporary application of the reduced tax rate for the delivery of food for consumption on the spot if the share of the remuneration attributable to the beverages is included in the distribution of the total purchase price for food and beverages 30% of the flat rate.

3 Adjustment of the existing flat rate for accommodation services

Short-term accommodation services, such as B. Hotel nights, are subject to the flat rate in accordance with Section 12 Paragraph 2 No. 11 Sentence 1 UStG. According to Paragraph 2 No. 11 S. 2 UStG, the reduced tax rate does not apply to ancillary services not directly used for accommodation. The tax authorities list, for example, which services should not directly serve as accommodation. The divisional requirement then applies to breakfast in particular (see Sect. 12.16 Para. 8 Clause 4 indent 1 UStAE). In the case of a flat rate for accommodation and services not directly serving accommodation (e.g. breakfast)

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tax authorities will not object if the accommodation company pays the person remuneration for the services that are not subject to the regular tax rate (e.g. parking lot, telephone and internet) 15% (instead of 20%) of the package price for this is that breakfast (with the exception of drinks) in the period from July June 30, 2021 is now subject to the reduced tax rate, just like overnight accom

4 practical consequences

Against the background of the actual distribution difficulties as well as the limited validity of the tax rate reduction, the flat rate makes sense for the catering trade. The flat rate is likely to result in incorrect results. This is the case if the actual fee for the delivery of drinks deviates significantly from the 30% of the total sales price. Affected companies should therefore check whether the remuneration share for the delivery of drinks corresponds to approximately 30% of the total sales price. If the fee for the delivery of beverages is much lower, a breakdown according to the retail price is available, z. B. according to the use of goods.

Basically, the adjustment of the flat rate for services that do not directly serve the accommodation also initially simplifies the accommodation companies. However, if they only offer breakfast in addition to the overnight stay and no other services such as parking

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appropriate distribution of the total sales price with the responsible tax office.
can already be doubted whether the distribution requirement in § 12 Para. 2 N
UStG, which requires a distribution of the total sales price,



Dr. Matthias Oldiges

Lawyer

+49 (0) 221 540 953 91.

matthias.oldiges@kmlz

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Published by



Dr. Matthias Oldiges

Managing Associate / Attorney at KMLZ / Lecturer LMU Munich

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The letter from the **Federal Ministry of Finance** vom 02.07.2020 bringt Erleichterungen für die Gastro Hotellerie. Danach darf der Gastronom im Zeitraum 1. Juli 2020 bis 30. Juni 2021 bei der Aufteilung des Gesamtkaufpreises für Speisen und Getränke für die Getränke 30% des Pauschalpreises ansetzen. Beherbergungsunternehmen dürfen die dem Regelsteuersatz unterliegenden und nicht unmittelbar dienenden Leistungen mit 15% des Pauschalpreises ansetzen (bisher 20%).

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DGHV Deutscher Gastro und Hotelverbund GmbH
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Dr. Matthias Oldiges

Managing Associate / Attorney at KMLZ / Lecturer LMU Munich

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