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In addition to the BMF letter of June 30, 2020, Federal Tax Gazette I p. 584, the following applies to the temporary lowering of the general and reduced sales tax rate on July 1, 2020 and to its increase on January 1, 2021:

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**Advance and down payment invoices**

1 In advance and down payment invoices received after June 30, 2020 and before January 1, 2021 and for which the remuneration has been received during this period, the tax must be calculated using the sales tax rate of 16 percent or 5 percent. Insofar as it is certain that the respective service will only be provided after December 31, 2020, there will be no complaint if the then applicable tax rate of 19 percent or 7 percent is already applied. The recipient of such an invoice can claim the stated tax amount as input tax under the other conditions (see BMF letter of 30 June 2020, BStBl I

P. 584, margin no. 47, 51 and 52 as well as 9 and 11).

2 If, in an advance or down payment invoice before July 1, 2020, the tax is calculated according to the tax rate of 19 percent or 7 percent, but the remuneration was only received after June 30, 2020, the service provider owes the additional tax according to § 14c para . 1 UStG. The recipient of the service is insofar - subject to the non-objection regulation in margin no. 46 of the BMF letter of 30 June 2020, BStBl I p. 584, is not entitled to deduct input tax, as it is not a legally owed tax (Section 15 (1) sentence 1 no. Advance invoices or down payment invoices that are submitted before January 1, 2021 and for which the remuneration is received after December 31, 2020, are taxed at a tax rate of 19 percent or 7 percent, even if the invoice shows a lower tax rate .

3 If, in the case of cumulative advance and down payment invoices in an invoice that has already been issued, the tax has been calculated according to a tax rate applicable at that time, the calculation of this tax is only to be corrected in the pre-notification period in which the delivery or other service is carried out (§ 27 para. 1 sentence 3 UStG). The tax cannot be changed in any other advance or down payment invoice to the then applicable tax rate.

4th The legal relationship between the invoice issuer and the invoice recipient is of a civil law nature. Insofar as there is a contract under the law of obligations between the parties involved, any existing obligation to issue or correct an invoice is a secondary civil law obligation derived from Section 242 of the German Civil Code, which can be enforced in civil law proceedings (see Section 14.1 Para. 5 UStAE).

**Issuing a voucher for a bindingly ordered item and restaurant vouchers**

- 5 The issuance of a document called a voucher for a bindingly ordered item, for which a later exchange, cash payment or transfer of the voucher to another seller or buyer is excluded and the issuance of which is associated with an acceptance obligation, is a deposit, which according to . Section 13 (1) no. 1 letter a sentence 4 UStG is taxable at the end of the pre-notification period in which the payment was received. If paid before January 1, 2021, sales tax must initially be calculated at a tax rate of 16 percent or 5 percent. If the item is delivered after December 31, 2020, a correction to 19 percent or 7 percent at the time the service is performed must be made. Is already clear when the deposit is paid,

**Example:**

A car dealer offers to apply the reduced sales tax rate to the purchase of a new or used vehicle that can only be delivered after December 31, 2020 by issuing a document called a voucher ("voucher") in the second half of 2020. with a tax rate of 16 percent. The "voucher" relates to a binding order for an individualized vehicle with an obligation to accept it. A later exchange, a cash payment or a transfer of the "voucher" to another seller or buyer is excluded. There is no single-purpose voucher i. S. d. Section 3 (14) sentence 1 UStG, but a deposit in accordance with Section 13 (1) no. 1 letter a sentence 4 UStG. In connection with the binding order, this entitles the purchaser to receive a precisely specified vehicle from a specified company. The difference to the single-purpose voucher is that the subject of the service is not only determinable, but - as in the case of a binding order - its content is precisely determined. The purchaser has no way of selecting or influencing the actual delivery time. If paid before January 1, 2021, sales tax must initially be calculated at a tax rate of 16 percent. If the vehicle is delivered after December 31, 2020, a correction to 19 percent must then be made at the time the service is performed. that the object of performance is not only determinable, but - as in the case of a binding order - its content is precisely determined. The purchaser has no way of selecting or influencing the actual delivery time. If paid before January 1, 2021, sales tax must initially be calculated at a tax rate of 16 percent. If the vehicle is delivered after December 31, 2020, a correction to 19 percent must then be made at the time the service is performed. that the object of performance is not only determinable, but - as in the case of a binding order - its content is precisely determined. The purchaser has no way of selecting or influencing the actual delivery time. If paid before January 1, 2021, sales tax must initially be calculated at a tax rate of 16 percent. If the vehicle is delivered after December 31, 2020, a correction to 19 percent must then be made at the time the service is performed. January 2021 initially with a tax rate of 16 percent. If the vehicle is delivered after December 31, 2020, a correction to 19 percent must then be made at the time the service is performed. January 2021 initially with a tax rate of 16 percent. If the vehicle is delivered after December 31, 2020, a correction to 19 percent must then be made at the time the service is performed.

6th If vouchers for restaurant services were issued before July 1, 2020, the tax remains as a single-purpose voucher at 19 percent, even if they are redeemed between July 1, 2020 and June 30, 2021. Because the treatment as a single-purpose voucher is based solely on the legal situation at the time of issue.

By the Corona Tax Aid Act of June 19, 2020, Federal Law Gazette I p. 1385, § 12 Paragraph 2 No. 15 UStG was added. This includes the limited application of the reduced tax rate for restaurant and catering services from July 1, 2020 to June 30, 2021, with the exception of beverages. Since the tax rate to be applied during this period cannot be clearly determined due to the different taxation of food and beverages, vouchers for catering and catering services issued during this period are basically multi-purpose vouchers with the result that the taxation at the time of the actual The service is provided at the then applicable tax rate.

Vouchers for restaurant services issued in the period from July 1, 2020 to June 30, 2021 can only be treated as single-purpose vouchers if the vouchers are explicitly restricted to the purchase of food or drinks. Vouchers for restaurant and catering services including drinks are only valid again as single-purpose vouchers if they are issued for the period from July 1, 2021.

### **3. Reimbursement of deposit amounts**

7th For reasons of simplification, deposit money can be settled with 16 percent sales tax in the period after June 30, 2020 and before January 1, 2021, if both the supplier and the recipient of the service correct the sales tax or input tax with the tax rate of 16 percent and use this accounting method is also used for deposits from January 1, 2021, then with the tax rate of 19 percent. This as well as the simplification rules in margin no. 31 and 50 of the BMF letter of 30 June 2020, BStBl I p. 584, apply not only to bottle deposits, but also to deposits for other items, such as

z. B. exchanged pallets as transport aids.

**4th Granting of annual bonuses**

8th In cases in which an entrepreneur carries out taxable sales with both the general and the reduced tax rate, there is no objection if the entrepreneur for the tax adjustment according to § 17 para. 1 sentence 1 UStG the ratio of the with the general to is based on the sales taxable at the reduced tax rate and assumes a tax rate of 19 percent or 7 percent for the entire calendar year.

9 Margin no. 33 of the BMF letter of 30 June 2020, BStBl I p. 584, applies accordingly to sales that are subject to the reduced tax rate. In this case, there is no objection to the fact that an entrepreneur refrains from dividing the joint wage reductions and applying the tax adjustment according to Section 17 (1)

Sentence 1 UStG is based on the reduced tax rate of 7 percent without exception. The recipient of the service has to proceed accordingly according to § 17 Abs. 1 Satz 2 UStG.

**5. Manufacturer discount when selling pharmaceutical products**

10 If a pharmaceutical company subsequently grants its customer a manufacturer discount, this leads to a reduction in payment. The original assessment basis must be corrected accordingly. Margin no. 32 and 33 of the BMF letter of 30 June 2020, BStBl I p. 584, apply accordingly. This also applies to statutory discounts in accordance with Section 130a (1) sentence 1 SGB or Section 1 AMRabG. With regard to the simplification regulations, it is a prerequisite that the pharmacy applies the fee from a third party corresponding to the fee reduction with the same tax rate.

**6th Taxation of electricity, gas, water, cold and heat supplies as well as waste water disposal**

11 The simplification regulations in margin no. 35 ff. Of the BMF letter of 30 June 2020, BStBl I p. 584, can also be applied to services within the framework of EEG feed-in and network use. This applies regardless of whether the recipient of the service is an end user or a utility company. The withdrawal of electricity by an entrepreneur from his company in 2020 for purposes outside his company can be granted to the

31 December 2020 applicable tax rate will be applied.

7th **Taxation of passenger transport in rail traffic, in regular traffic with motor vehicles and in traffic with trolleybuses**

12 Income from the sale of single tickets and season tickets that are valid until the end of the last operating day of December 2020 (the operating day December 31, 2020 often ends after midnight) can still be subject to the VAT rates applicable until December 31, 2020 of 16 percent and 5 percent respectively can be used.

13th Income from the sale of tickets for transport services before January 1, 2021 can, provided the tickets are valid after December 31, 2020, be estimated between the services provided before January 1, 2021 and after December 31, 2020 will.

14th The regulations of the BMF letter of January 21, 2020, BStBl I p. 19, apply accordingly.

8th. **Special and compensation payments for rental or leasing contracts**

15th Regardless of whether special payments and compensatory payments under a rental or leasing contract are attributable to the main or ancillary service, the application of the applicable sales tax rate depends on the time the respective main service is performed. If the main service in periods before July 1, 2020 and periods after June 30, 2020 or in periods after December 31, 2020 and periods before January 1, 2021, the special and compensatory payment is generally allocated to the respective main service pro rata temporis. Other appropriate apportionment methods are permitted.

9. **Applicable tax rate for total margins according to § 25 Abs. 3 Satz 3 UStG**

16 If the entrepreneur determines according to § 25 Paragraph 3 Sentence 3 UStG in the version valid until December 17, 2019, the version according to § 27 Paragraph 26 UStG for sales up to December 31, 2021 is to be applied, the assessment basis for all services rendered within the tax period, the tax rate of 16 percent applicable as of December 31, 2020 can be applied to these sales in 2020.

## **10. Differential taxation according to § 25a Abs. 4 UStG**

17th The tax rate of 16 percent applicable as of December 31, 2020 can be applied to the total margin according to § 25a Paragraph 4 UStG for sales in 2020.

## **11. Newspaper and magazine subscriptions**

18th In the case of digital newspaper and magazine subscriptions, the service is carried out on the last day of the agreed service period. In the case of analog newspaper and magazine subscriptions, the service will also be carried out on the last day of the agreed service period if no separate fee has been agreed or billed for the individual issues, but only a total purchase price.

## **12. Time of performance for services of an insolvency administrator**

19th The performance of an insolvency administrator is carried out when the order on which his performance is based (last enforcement act) has been completed. The performance of an insolvency administrator is according to the case law of the BFH (judgment of December 2 2015, VR 15/15, BStBl 2016 II p. 486) only provided with the decision of the insolvency court to repeal the insolvency proceedings according to Section 200 (1) InsO, unless there are other reasons for termination. For the sake of simplicity, there will be no complaints if the final distribution is based on the determination of the time of performance.

In the residual debt discharge procedure, the time of performance is determined by the time of the legally binding granting of the residual debt discharge according to § 300 InsO.

## **13. Scaffolding services**

20th With the provision of professionally assembled scaffolding for a certain period of time, the scaffolding contractor provides a uniform other service. It is not a work performance in the sense of VAT, as the scaffolding contractor does not take on the processing of an object. The service elements "assembly and dismantling" are ancillary services to the main service, the basic provision of the scaffolding for a certain period of time, as the assembly and dismantling services are closely related to the temporary provision of the scaffolding and inevitably occur in their wake. Because the construction and dismantling services have for the service recipient



do not have a purpose of their own, but rather represent the means to make use of the scaffolding under optimal conditions (cf. section 3.10 paragraph 5 sentences 3 and 4 UStAE).

The total "scaffolding" service can be divided into partial services according to usage periods with the service components assembly, service life (sum of basic provision and excess rent) and dismantling. The prerequisite for this is that the service components are individually owed and effected (see section 13.4 sentence 1 UStAE). If no partial services are agreed, the service will be carried out upon completion of the dismantling.

## 14. Recurring Services

21st The concept of continuous output in the sense of margin no. 23 of the BMF letter of 30 June 2020, Federal Tax Gazette I p. 584, recurring services are not recorded that are performed once or several times a year at regular intervals. These services are carried out on the day of each individual service provision.

Example:

An agreement called an "annual maintenance contract" has the following content: The provider undertakes to check the system once a year. During the check, the functionality is checked and a check protocol is created; the customer receives for services that go beyond the control work

a separate offer; the annual price is € xxx. Payment is due ten days after receipt of the invoice; this agreement can be terminated up to three months before the end of the calendar year. It is not a continuous service, as no continuous willingness to perform or performance is owed, but rather an activity to be performed at a specific point in time, which is merely clad in a permanent obligation under civil law. The tax rate is based on the day the service is rendered.

## 15. Taxation of sales in the hospitality industry

22nd For accommodation and related services during the night of June 30, 2020 to July 1, 2020, the sales tax rates of 5 and 16 percent applicable from July 1, 2020 apply. For reasons of simplification, it is permitted that these tax rates also apply to hospitality services (e.g. the supply of food and drinks for consumption on the spot, tobacco goods deliveries, etc.)

as well as for accommodation and related services in the night from December 31, 2020 to January 1, 2021.

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

On behalf

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