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VAT procedure for foreign businesses with taxable turnover in Germany

The finance ministry has issued a decree on the changeover procedures for a foreign business making taxable turnover in Germany for the first time.

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A business resident in another EU country or abroad is – given home country reciprocity – generally entitled to refund on the VAT incurred on its German business expenses. The procedure involves a claim from the Central Tax Office, either directly with appropriate documentation (foreign businesses), or indirectly through the home country tax authorities (EU businesses). However, if the business achieves turnover taxable in Germany, it is excluded from the relevant refund procedure and offsets its input tax against its output tax liability within the context of a full tax return filed with a local tax office. The finance ministry has now changed its VAT Implementation Decree in respect of the year in which the business changes its German status, that is, the year in which it carries out its first or last taxable transaction in Germany.

A business cannot change from the full return to the refund procedure during a calendar year. If it ceases its taxable transactions during a year, it remains liable to file periodic and annual returns for that year with its responsible tax office. It moves to the Central Tax Office refund procedure – assuming it meets the qualifying conditions – for the following year. By contrast, a business doing taxable turnover in Germany for the first time changes to the full return procedure with immediate effect. The Central Tax Office responsibility ceases, so that any as yet unclaimed deductible input tax is deducted within the context of the annual return, albeit subject to the limitations applicable to the business in its previous capacity. However, a refund claim already filed with the Central Tax Office remains valid.

Keywords

VAT refund, foreign business, refund procedure