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By PwC Deutschland | 02 October 2026

Reduced VAT rate in case of short-term accommodation in hotels

In three judgments, the Supreme Tax Court held that breakfast services provided to hotel guests, as well as access to fitness and wellness facilities, are not subject to the reduced tax VAT rate under Section 12 (2) Number 11 of the Value-Added Tax Act, and that this does not contravene EU law.

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Background

The three judgments are a follow-up to the decision of the European Court of Justice (ECJ) of 5 March 2026 in the joined cases *J GmbH et al.* C-409/24 through C-411/24 (see our **blog post of 8 March 2026**).

The cases referred by the Supreme Tax Court concerned the compatibility of Section 12 (2) No. 11 VAT Act with the EU VAT Directive: Must breakfast or other ancillary services offered by hotels and similar establishments that provide short-term accommodation be taxed separately from the supply of accommodation, or could it, as an ancillary service, be taxed at the same reduced rate as the principal supply?

The judgments relate to prior periods where restaurant and catering services - with the exception of the sale of beverages - were still subject to the standard tax rate when considered separately.

Section 12 (2) No.11 of the German VAT Act provides that the VAT rate is reduced to 7 percent for the leasing of living space and bedrooms that a taxable person keeps ready for short-term accommodation of guests, as well as the short-term leasing of camping sites. This shall not apply to services that do not directly relate to leasing even when, by virtue of the payment for the leasing, these services are also compensated.

Pursuant to Article 98 (1) and (2), in conjunction with Annex III, No. 12, of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, Member States may apply one or two reduced tax rates which are applicable only to the supply of goods and services in the categories listed in Annex III. These include accommodation in hotels and similar establishments, as well as accommodation in holiday accommodation establishments, and the rental of campsites and sites for parking caravans.

Decision of the Supreme Tax Court in the main proceedings

In its **judgment regarding case V R 8/26 (XI R 11/23; XI R 34/20)**, the Supreme Tax Court found that the plaintiff had provided a service subject to the standard tax rate by serving breakfast to hotel guests. The matter regarding the provision of parking spaces was not yet fully clear. In a second proceeding, the lower tax court must first clarify whether the provision of parking spaces constitutes a taxable service provided for consideration at all,

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given that the parking spaces were not only available to overnight guests and restaurant patrons but were also freely accessible to the general public at no charge.

In **case V R 11/26 (XI R 14/23; XI R 22/21)** the Supreme Tax Court decided that by making fitness and wellness facilities available to hotel guests the plaintiff had provided services subject to the standard tax rate. However, the provision of parking spaces that were freely available at no charge not only to hotel guests staying overnight but also to all other visitors to the hotel and the general public did not constitute a service for consideration. Based on the earlier findings of the lower tax court, however, the Supreme Tax Court was not able to determine whether access to Wi-Fi constituted a non-taxable service or whether this was only available to hotel guests.

In both cases, the Supreme Tax Court overturned the judgments of first instance dismissing the claims and referred the cases back to the respective tax courts for further hearing and final decision.

In the **parallel case V R 10/26 (XI R 13/23; XI R 7/21)**, the Supreme Tax Court came to the same conclusion, namely that breakfast services provided to hotel guests are not subject to the reduced tax rate, and that this approach is not in violation of EU law. The lower tax court had correctly assumed that, by providing breakfast services to hotel guests, the plaintiff had rendered a service subject to the standard tax rate.

Source: Supreme Tax Court judgments of 21 May 2026 in the cases (III R 38/23) V R 8/26 (XI R 11/23, XI R 34/20), V R 11/26 (XI R 14/23, XI R 22/21) and V R 10/26 (XI R 13/23; XI R 7/21), published on 1 October 2026.

Keywords

ancillary service, hotel accomodation, reduced rate VAT