

Fact sheet

VAT on international passenger transport services using buses or coaches that are not registered in the Federal Republic of Germany

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I. Introduction

- 1 (1) Passenger transport services are subject to value-added tax (VAT) in the Federal Republic of Germany. The taxation of these services is prescribed under European law by Directive 2006/112/EC on the common system of value added tax – VAT Directive (and until 31 December 2006 by the Sixth Council Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes.
- 2 (2) Like any other service that a business performs for consideration, passenger transport services using buses or coaches are subject to VAT (for exceptions to this rule, see paragraphs 29-32). This is the case regardless of whether the transport operation is performed by a domestic or foreign business, whether the passengers are domestic or foreign, or whether the passengers are youths or adults/senior citizens. This also applies to both regular and occasional passenger transport services (see paragraphs 5 and 6). In the case of passenger transport services that span both the territory of the Federal Republic of Germany as well as the territory of other countries, only that part of the service that takes place on German territory is taxable in the Federal Republic of Germany.
- 3 (3) In general, tax liability for taxable passenger transport services attaches to the business providing the service. However, in the case of passenger transport services by bus or coach provided **prior to 1 October 2013**, if the business providing the service is not domiciled in Germany, VAT attaches to the recipient of the service if the recipient is a business or a legal person. The provisions under which VAT is payable by the recipient do not apply to cases in which non-resident businesses provide passenger transport services in Germany that are subject to separate VAT assessments for each journey (*Beförderungseinzelbesteuerung*, hereinafter referred to as “journey-specific VAT assessments”; see paragraphs 22 to 28) or that are carried out by taxi. In the case of passenger transport services by bus or coach provided **after 30 September 2013**, tax liability always attaches to the business providing the service.
- 4 (4) In general, taxation is carried out by a tax office using the general taxation procedure (see paragraphs 13 to 20). However, when journey-specific VAT assessments on transport services are conducted at Germany’s borders to non-EU countries (third-country borders, see paragraph 7), such assessments are performed by a customs office at the time the vehicle crosses the border (see paragraphs 22 to 28).

II. Definitions

- 5 (1) **Regular transport services** are regularly scheduled passenger transport operations on approved transport routes between a specific departure point and a specific terminus; on these routes, passengers may board or exit the vehicles at specific stops. Authorisation from each country that forms part of the respective route must be carried on board the vehicle.
- 6 (2) **Occasional transport services** are those transport services that are not classified as regular transport services. These include **tourist excursions, holiday trips and journeys using hired buses or coaches**. **Tourist excursions** are journeys offered and carried out by a provider in accordance with a specific plan set up by the provider and for a purpose that is identical for all participants. **Holiday trips** are trips for stays at recreational destinations that are offered and carried out by a provider in accordance with a specific plan set up by the provider for a total consideration that includes transport and accommodation, including or excluding meals. **Journeys with hired buses or coaches** involve the transport of passengers in hired buses or coaches used by a provider to carry out journeys whose purpose, destination and schedule are determined by the hirer of the vehicle. For transport services requiring authorisation, such authorisation for each respective journey must be carried on board the vehicle. For transport services that are exempt from authorisation, a fully completed journey form must be carried on board. Transport services classified as **shuttle services** in bilateral agreements with third countries constitute **occasional transport services**.

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(3) A **third-country border to the Federal Republic of Germany** is a border to a country that is not a member of the European Union (i.e., the borders between Switzerland and Germany and at ports).

III. Passenger transport services that use buses or coaches not registered in the Federal Republic of Germany in accordance with road traffic law and that do not cross a third-country border upon entry to or exit from the Federal Republic of Germany

In general, the following rules apply to the taxation of these passenger transport services:

1. Notification requirement

8 (1) Non-resident businesses that perform cross-border passenger transport services using buses or coaches not registered in Germany are required to notify the tax office responsible for VAT under section 21 of the Fiscal Code (*Abgabenordnung*) (see also paragraph 13) prior to the first transaction for which VAT will apply in Germany.

9 (2) There is no required form for providing notification of the first transaction involving cross-border passenger transport services using buses or coaches not registered in Germany. However, the form

USt 1 TU – Notification regarding cross-border passenger transport services using buses or coaches (section 18 subsection (12), first sentence, of the VAT Act),

which is attached as Annex 1 to this Fact Sheet, should be used whenever possible. The form (in German) is available at the competent tax office under section 21 of the Fiscal Code (see paragraph 13).

(3) Persons who do not use this form must nevertheless provide the same information required on the form when notifying the competent tax office.

2. Authorisation procedure

10 (1) In conjunction with the VAT registration of the non-resident business, the tax office responsible for assessing VAT under section 21 of the Fiscal Code (see paragraph 13) issues a separate authorisation for each bus or coach not registered in Germany that is to be used for cross-border passenger transport services (section 18 subsection (12), second sentence, of the VAT Act).

11 (2) The authorisation issued in accordance with section 18 subsection (12), second sentence, of the VAT Act must be carried on board during each journey in Germany and must be presented on demand to the customs offices responsible for tax supervision (section 18 subsection (12), third sentence, of the VAT Act). If the required authorisation cannot be presented, these customs offices may, in accordance with the relevant tax law provisions, require a security payment equivalent to the expected amount of tax payable on the respective individual transport operation (section 18 subsection (12), fourth sentence, of the VAT Act). Security payments made under such circumstances are to be deducted from taxes to be paid (section 18 subsection (12), fifth sentence, of the VAT Act) in connection with the VAT declaration for the respective calendar year (section 18 subsection (3), first sentence, of the VAT Act).

12 (3) An administrative offence is deemed to have been committed by anyone who violates section 18 subsection (12), third sentence, of the VAT Act by intentionally or negligently failing to present authorisation under section 18 subsection (12), second sentence, of the VAT Act or by failing to do so on time (section 26a subsection (1) no. 4 of the VAT Act). This administrative offence may be punished by a fine of up to €5,000 (section 26a subsection (2) of the VAT Act).

3. Competent tax office

- 13 If a transport service company's operations are based in the Federal Republic of Germany, the competent tax office is the one in whose jurisdiction the company's operations are based. Under section 21 subsection (1), second sentence, of the Fiscal Code in conjunction with the VAT Competency Ordinance (*Umsatzsteuerzuständigkeitsverordnung*), businesses whose domicile, registered office or management is located outside Germany fall within the jurisdiction of designated tax offices as listed in **Annex 2**.

4. Tax base and tax rate

- 14 The basis for assessing VAT is that portion of the agreed fare (less VAT) which corresponds to the segment of the journey travelled in Germany. The total fare is to be divided up proportionally in accordance with the distance travelled in Germany and the distance travelled outside of Germany. The tax rate is generally 19%. The reduced VAT rate of 7% is to be used for authorised regular transport services if the transport route in Germany does not exceed 50 kilometres.

5. General taxation procedure

- 15 VAT on the part of the transport route travelled in Germany is imposed using the general taxation procedure. As part of this procedure, carriers must submit provisional VAT returns and an annual VAT return to the competent tax office.

a) Provisional VAT returns

- 16 (1) Carriers are required to file provisional VAT returns within 10 days after the end of the respective provisional VAT return period; returns are to be submitted – generally via electronic means – to the competent tax office, and the party submitting the return must be authenticated (section 18 subsection (1), first sentence, of the VAT Act). More detailed information is available from the competent tax office (see paragraph 13). Information on the electronic filing of returns is available (in German) at www.elster.de.
- 17 (2) The provisional VAT return period is normally the calendar quarter. However, if VAT in the previous calendar year exceeded €7,500, the provisional VAT return period is the calendar month. If VAT in the previous year did not exceed €1,000, the tax office may exempt the carrier from the requirement to submit provisional returns and make prepayments.
- 18 (3) The provisional return must include all transactions carried out in Germany. Input VAT connected to these transactions is to be deducted from the calculated amount of VAT. Prepayments calculated accordingly are due on the 10th day after the end of the respective provisional VAT return period.

(b) Annual VAT return

- 19 Carriers are required to file an annual VAT return with the competent tax office (see paragraph 13) by 31 May of the following calendar year. Returns are generally to be submitted via electronic means, and the party submitting the return must be authenticated (section 18 subsection (3), first sentence, of the VAT Act). Further information is available (in German) at www.elster.de.

6. Consequences of failure to comply with tax obligations

- 20 If a business fails to file a provisional VAT return or annual VAT return, the tax office estimates the tax base to determine VAT. If a business calculates its VAT prepayment or annual VAT incorrectly, the tax office determines the correct amount. Late filing or non-filing of provisional or annual returns may be subject to a late filing penalty of up to 10% of the tax owed, but no more than €25,000. Late payments are penalised with a late payment charge of 1% for each month or part of a month. Wrongful conduct by a carrier may be punished as tax evasion or subject to a fine for negligent underpayment of taxes. If a carrier fails to meet the

tax obligations arising from its business, its eligibility for authorisation may be reviewed and its authorisation subsequently revoked (see paragraphs 5 and 6).

IV. Passenger transport services that use buses or coaches not registered in Germany in accordance with road traffic law and that cross a third-country border upon entry to or exit from the Federal Republic of Germany (i.e., the borders between Switzerland and Germany and at ports)

1. Regular transport services

21 For the taxation of regular transport services, the explanations provided in paragraphs 8 to 20 apply accordingly as regards tax base, tax rate, competent tax office and taxation procedure.

2. Occasional transport services

22 The following rules apply to the taxation of occasional transport services that use buses or coaches not registered in Germany in accordance with road traffic law and that cross a third-country border upon entry to or exit from the Federal Republic of Germany:

a) Competent authority

23 Taxation upon entry to or exit from the Federal Republic of Germany across a third-country border is carried out at the border by the competent customs office, which acts on behalf of the tax office in whose jurisdiction it lies.

b) Tax base and tax rate

24 For purposes of simplification, VAT is calculated on the basis of an average transport price using the journey-specific VAT assessment procedure. The average transport price is **4.43 cents** per passenger-kilometre. Thus, at a rate of 19%, VAT amounts to **0.84 cents** per passenger-kilometre travelled in the Federal Republic of Germany. The applicable number of passenger-kilometres is determined by multiplying the number of passengers with the number of kilometres travelled in Germany (the route actually driven in Germany).

c) Taxation procedure

25 (1) For each separate journey, carriers must submit a tax return in duplicate to the customs office at the third-country border upon entry to or exit from Germany. The customs office, which also provides the tax return forms, determines the tax and notes the amount on both copies. After paying the tax, the carrier receives a copy of the tax return together with a receipt of payment. This copy, together with the receipt, must be carried on board during the journey. When exiting the Federal Republic of Germany **via a third-country border**, the carrier must submit an additional tax return at the customs office if the number of passenger-kilometres has changed.

26 (2) Carriers may lodge an objection to the tax determined by the customs office but must do so within one month. If the customs office does not fully remedy the objection, the case undergoes further processing by the tax office in whose jurisdiction the customs office lies.

27 (3) The journey-specific VAT assessment procedure does not take input taxes into account. However, the carrier may use the input tax refund procedure to apply for the reimbursement of input tax if the input tax was connected to a transport operation that was subject to journey-specific VAT assessment. Information on the input tax refund procedure may be obtained from the Schwedt/Oder branch of the Federal Central Tax Office (address: Passower

Chausee 3b, 16303 Schwedt/Oder; tel.: +49 (0) 2 28 406-1200; fax: +49 (0) 2 28 406-3200; website: <http://www.bzst.de>).

- 28 (4) In lieu of using only the journey-specific VAT assessment procedure, carriers may, after the end of the calendar year, re-declare their passenger transport services to the competent tax office using the general taxation procedure (VAT return; see paragraph 19). In this case, carriers calculate the VAT payable on that portion of the fare price that corresponds to the route travelled in Germany (see paragraph 14), deducting the input VAT connected to the transport services (this does not apply to input VAT that has already been reimbursed under the input tax refund procedure). VAT paid at third-country borders under the journey-specific VAT assessment procedure is then credited against the resulting amount (the amount to be credited must be documented through the submission of all tax statements received as part of the journey-specific procedure). The resulting surplus VAT paid, if any, is refunded.

V. Exemptions from the taxation of passenger transport services

- 29 (1) Passenger transport services are not subject to tax if they are performed **free of charge** or if they involve the use of own buses or coaches by a **non-commercial entity**. For example, if cultural organisations (e.g., theatre or music ensembles, choirs, etc.), school or youth groups, or members of foreign associations travel in buses or coaches that belong to the organisation, school or association, it can generally be assumed that the passenger transport services are not being carried out as part of a commercial undertaking. This is to be evidenced on the basis of the vehicle's registration documents.
- 30 (2) If the organisation, school or association rents a bus or coach carries out a journey using its own driver, in its own name, and on its own responsibility and account, this is not deemed a taxable passenger transport service. Such cases must be verifiable with receipts and documents that, in particular, provide unambiguous evidence of the legal relations between the parties. One issue of significance in this connection is whether the driver of the bus or coach is employed and paid by the business that rents out the vehicle or whether the rental contract involves provision of a driver. If this is the case, it can generally be assumed that the transport operation is being carried out by the bus company and that the transaction fulfils the criteria for a taxable passenger transport service.
- 31 (3) The question of whether the documentation presented at the third-country border is sufficient to prove the VAT-exempt status of the transport operation is to be decided on-site by the processing customs officer. Therefore, in order to ensure that such cases are processed quickly and correctly, rental contracts – including, where appropriate, a German translation – must be carried on board the vehicle. Contracts must clearly state which services are being provided by the rental company. Failure to present this documentation to the customs office will result in the drawing up of a tax assessment notice stating payable VAT. Therefore, to ease clearance with customs, parties renting buses or coaches are advised to have their case assessed by the competent tax office before the passenger transport takes place. If the transport operation is indeed VAT-exempt, the tax office can issue a verification document that the renting party can then present to the customs office.
- 32 (4) However, even if the passenger transport operation is VAT-exempt, the rental service provided by a business operated in a third-country location remains subject to VAT to the extent that the rented vehicle was used in Germany. This taxation is carried out using the general taxation procedure (see paragraphs 15 to 19).

VI. Further information

- 33 If you have any questions that are not answered by this fact sheet, you can obtain further information from the relevant tax offices or from the customs administration's central information unit (Informations- und Wissensmanagement Zoll, address: Carusufer 3-5, 01099 Dresden; tel.: +49 (0)351 44834-520; fax: +49 (0)351 44834-

590; e-mail: info.gewerblich@zoll.de). Professional tax advisors may also be able to provide assistance.

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Anlage 1

Absender _____	PLZ, Ort, Datum _____
Finanzamt _____	Straße, Nr. _____
_____	Land _____
_____	Telefon _____

Anzeige eines im Ausland ansässigen Unternehmers über die Ausführung grenzüberschreitender Personenbeförderungen mit nicht im Inland zugelassenen Kraftomnibussen (§ 18 Abs. 12 Satz 1 UStG)

Das nachstehend bezeichnete Unternehmen beabsichtigt, ab dem _____ grenzüberschreitende Personenbeförderungen mit nicht im Inland zugelassenen Kraftomnibussen in Deutschland durchzuführen:

Name und Vorname bzw. Firma		
Anschrift		
Telefon	Telefax	Email
Bankverbindung Name des Geldinstituts (Zweigstelle und Ort)		
IBAN- bzw. Kontonummer		BIC (SWIFT-Code) bzw. Bankleitzahl
Name und Anschrift des steuerlichen Vertreters (Steuerberater usw.) - falls vorhanden -		
Werden Sie im Inland umsatzsteuerlich geführt?	Falls ja: Finanzamt	Steuernummer
<input type="checkbox"/> ja <input type="checkbox"/> nein		
Angaben über das/die Kraftfahrzeug/e Anzahl der Fahrzeuge amtliche/s Kennzeichen (ggf. Aufstellung beifügen)		
Voraussichtliche Höhe der Umsätze im laufenden Kalenderjahr (voraussichtliches Entgelt, das auf die in Deutschland zurückgelegten Beförderungsstrecken entfallen wird): _____ Euro		
Bemerkungen:		
Ort, Datum	Unterschrift und Firmenstempel	

Annex 2

Country	Competent tax office	Country	Competent tax office
Belgium	Finanzamt Trier Hubert-Neuerburgstr. 1 54290 Trier Tel.: +49 651 / 9360-0 Fax: +49 651 / 9360-34900	Italy	Finanzamt München Deroystrasse 20 80335 München Tel.: +49 89 / 1252-0 Fax: +49 89 / 1252-2222
Bulgaria	Finanzamt Neuwied Augustastr. 70 56564 Neuwied Tel.: +49 2631 / 910-0 Fax: +49 2631 / 910-29906	Croatia	Finanzamt Kassel-Hofgeismar Altmarkt 1 34125 Kassel Tel.: +49 561 / 7208-0 Fax: +49 561 / 7208-2152
Denmark	Finanzamt Flensburg Duburger Str. 60 - 64 24939 Flensburg Tel.: +49 461 / 813-0 Telefax: +49 461 / 813-254	Latvia	Finanzamt Bremen Rudolf-Hilferding-Platz 1 28195 Bremen Tel.: +49 421 / 361-96483 Fax: +49 421 / 361-96205
Estonia	Finanzamt Rostock Möllner Str. 13 18109 Rostock Tel.: +49 381 / 7000-0 Fax: +49 381 / 7000-444	Liechtenstein	Finanzamt Konstanz Byk-Gulden-Str. 2a 78467 Konstanz Tel.: +49 7531 / 289-0 Fax: +49 7531 / 289-312
Finland	Finanzamt Bremen Rudolf-Hilferding-Platz 1 28195 Bremen Tel.: +49 421 / 361-96483 Fax: +49 421 / 361-96205	Lithuania	Finanzamt Mühlhausen Martinistrasse 22 99974 Mühlhausen Tel.: +49 3601 / 456-0 Fax: +49 3601 / 456-100
France	Finanzamt Offenburg Zeller Str. 1-3 77654 Offenburg Tel.: +49 781 / 933-0 Fax: +49 781 / 933-2444	Luxembourg	Finanzamt Saarbrücken Am Stadtgraben Am Stadtgraben 2-4 66111 Saarbrücken Tel.: +49 681 / 3000-0 Fax: +49 681 / 3000-329
Greece	Finanzamt Neukölln Thiemannstr. 1 12059 Berlin Tel.: +49 30 / 902416-0 Fax: +49 30 / 902416-900	Macedonia	Finanzamt Neukölln Thiemannstr. 1 12059 Berlin Tel.: +49 30 / 902416-0 Fax: +49 30 / 902416-900
United Kingdom and Northern Ireland	Finanzamt Hannover-Nord Vahrenwalder Str. 206 30165 Hannover Tel.: +49 511 / 6790-0 Fax: +49 511 / 6790-6090	Netherlands	Finanzamt Kleve Emmericher Strasse 182 47533 Kleve Tel.: +49 2821 / 803-1020 Fax: +49 2821 / 803-1201
Ireland	Finanzamt Hamburg-Nord Borsteler Chaussee 45 22453 Hamburg Tel.: +49 40 / 428-7070 Fax: +49 40 / 428-06220	Norway	Finanzamt Bremen Rudolf-Hilferding-Platz 1 28195 Bremen Tel.: +49 421 / 361-96483 Fax: +49 421 / 361-96205

Country	Competent tax office	Country	Competent tax office
Austria	Finanzamt München Deroystrasse 20 80335 München Tel.: +49 89 / 1252-0 Fax: +49 89 / 1252-2222	Slovenia	Finanzamt Oranienburg Heinrich-Grüber-Platz 3 16515 Oranienburg Tel.: +49 3301 / 857-0 Fax: +49 3301 / 857-334
Poland	<u>Letters A to M:</u> Finanzamt Oranienburg Heinrich-Grüber-Platz 3 16515 Oranienburg Tel.: +49 3301 / 857-0 Fax: +49 3301 / 857-334	Spain	Finanzamt Kassel-Hofgeismar Altmarkt 1 34125 Kassel Tel.: +49 561 / 7208-0 Fax: +49 561 / 7208-2152
	<u>Letters N to Z:</u> Finanzamt Cottbus Vom-Stein-Str. 29 03050 Cottbus Tel.: +49 355 / 4991-4100 Fax: +49 355 / 4991-4150	Czech Republic	Finanzamt Chemnitz-Süd Paul-Bertz-Strasse 1 09120 Chemnitz Tel.: +49 371 / 279-0 Fax: +49 371 / 227065
Portugal	Finanzamt Kassel-Hofgeismar Altmarkt 1 34125 Kassel Tel.: +49 561 / 7208-0 Fax: +49 561 / 7208-2152	Turkey	Finanzamt Dortmund-Unna Rennweg 1 44143 Dortmund Tel.: +49 231 / 5188-1 Fax: +49 231 / 5188-2796
Romania	Finanzamt Chemnitz-Süd Paul-Bertz-Strasse 1 09120 Chemnitz Tel.: +49 371 / 279-0 Fax: +49 371 / 227065	Ukraine	Finanzamt Magdeburg Tessenowstrasse 10 39114 Magdeburg Tel.: +49 391 / 885-12 Fax: +49 391 / 885-1000
Russian Federation	Finanzamt Magdeburg Tessenowstrasse 10 39114 Magdeburg Tel.: +49 391 / 885-12 Fax: +49 391 / 885-1000	Hungary	Zentralfinanzamt Nürnberg Thomas-Mann-Strasse 50 90471 Nürnberg Tel.: +49 911 / 5393-0 Fax: +49 911 / 5393-2000
Sweden	Finanzamt Hamburg-Nord Borsteler Chaussee 45 22453 Hamburg Tel.: +49 40 / 428-7070 Fax: +49 40 / 428-06220	United States	Finanzamt Bonn-Innenstadt Welschnonnenstr. 15 53111 Bonn Tel.: +49 228 / 718-0 Fax: +49 228 / 718-2990
Switzerland	Finanzamt Konstanz Byk-Gulden-Str. 2a 78467 Konstanz Tel.: +49 7531 / 289-0 Fax: +49 7531 / 289-312	Belarus	Finanzamt Magdeburg Tessenowstrasse 10 39114 Magdeburg Tel.: +49 391 / 885-12 Fax: +49 391 / 885-1000
Slovakia	Finanzamt Chemnitz-Süd Paul-Bertz-Strasse 1 09120 Chemnitz Tel.: +49 371 / 279-0 Fax: +49 371 / 227065	Other countries	Finanzamt Neukölln Thiemannstr. 1 12059 Berlin Tel.: +49 30 / 902416-0 Fax: +49 30 / 902416-900