Mehrsprachige Info

Small business exemption regulation (sales tax)

Kleinunternehmerregelung

Small businesses are exempt without credit from sales tax. This means:

- They do not have to pay any sales tax on their income to the fiscal authorities (=> no sales tax on outgoing invoices)
- On the other hand, they may not deduct input tax from expenses (=>no input tax deduction on incoming invoices)

Who is a small business owner?

Small business owners are entrepreneurs who operate their company in Austria (entrepreneurs who are resident or domiciled in Austria up to 31 December 2016) and whose annual income does not exceed €35,000.

The overall turnover for one year is what counts. If you conduct various entrepreneurial activities (e.g. commercial operation, letting, farming/forestry), the individual turnover must be added up. The annual turnover of a farming/forestry operation as a lump sum is estimated at 1.5 times the basic value.

Not included in the limit are

- turnover from ancillary business (sale of fixed assets) and business disposals
- imports
- intra-community acquisitions (ica) and
- turnover on which the small business owner is liable to pay tax

as well as - from 1.1.2017 - numerous transactions exempt from tax, such as

- turnover of official stamps valid for use for postal services within the territory of the country at their printed value
- supply of investment gold in specific forms
- compensation to members of a supervisory board, administrative board or other persons entrusted with supervising the management of the business, which are awarded for this function
- certain betting revenues
- under certain circumstances, the turnover of the businesses of blind persons
- turnover of private schools
- turnover of private teachers
- event turnover of popular education associations
- turnover of building associations and insurance agents
- turnover of non-profit sports clubs
- turnover of foster mothers and childminders or foster parents
- turnover from various homes (institutions)
- turnover of persons exercising various health professions (e.g. also curative massage therapists)
- turnover of dental technicians
- turnover from patient transportation
- turnover of public bodies or non-profit institutions from the operation of theatres, musical and singing performances, museums, botanical or zoological gardens or nature parks
- turnover from the supply of goods for which the entrepreneur could not deduct input tax at the time of acquisition

In order to calculate the limit, the sales tax must be subtracted out, even if the small business owner does not yet pay any sales tax.

Example:

An entrepreneur generates total revenues of € 40,400 in 2020, coming from two areas:

Proceeds as a freelance graphic artist: €36,000
Proceeds from letting an apartment: €4,400

Discounting the small business exemption regulation, operational turnover would be subject to a tax rate of 20%; the turnover from the letting would be subject to a tax rate of 10%.

The net turnover that decides the small business owner limit is calculated as follows:

Operational turnover € 36,000/1.2 = € 30,000
Letting € 4,400/1.1 = € 4,000
Net turnover €34,000

The entrepreneur can make use of the small business exemption regulation.

The limit may be exceeded by a maximum of 15% once in five years. An exception applies for the period after 1.1.2020: this tolerance rule can also be invoked if the tolerance limit that was valid before 1.1.2020 has already been used once within the previous four years.

Example:

The entrepreneur generates (net) turnover subject to the standard tax rate in the following amounts:

- Turnover 2017: € 20,000
- Turnover 2018: € 33,000
- Turnover 2019: € 20,000
- Turnover 2020: € 39,000
- Turnover 2021: € 44,000

The small business exemption regulation will still be applicable in 2020, even though the tolerance limit until 31.12.2019 has already been exceeded once (in 2018) within the five-year assessment period. The exceeding of the new small business limit of € 35,000 in 2020 is within the 15 percent tolerance (max. € 40,250) and is considered to be the first time the turnover limit is exceeded within 5 calendar years. Only in 2021, when the turnover limit is again exceeded, will the small business exemption regulation cease to apply.

Which turnover is tax free?

The sales tax exemption includes supplies and other services, whose place of delivery or supply is in Austria, as well as turnover from ancillary business and business disposals. There is no exemption for intra-community acquisitions, imports and services from foreign businesses whose place of supply is in Austria and where the tax liability is transferred to the small business owner (reverse charge).

Note:
Sales whose place of delivery or supply is abroad are not covered by the small business exemption regulation and are therefore regularly taxable abroad.

Do small business owners have the right to deduct input tax?

The small business exemption is "without credit". In principle, this means you may not deduct the sales tax from your expenditures.

Option regarding sales tax liability

The small business exemption is "without credit". In principle, this means you may not deduct the sales tax from your expenditures.

If you believe that the exemption from sales tax brings disadvantages (e.g. due to high input tax during the start-up phase; customers are mainly companies who are entitled to deduct input tax), you can waive it (option declaration).

The waiver must be declared to the fiscal authorities in writing (U12 form, downloadable on the home page of the Federal Ministry of Finance, BMF).

You can submit the option declaration at the latest on the day the sales tax notification takes legal force. After that, you will be committed for the year for which you submitted the declaration and for the next 4 years. You can revoke the option declaration only upon the expiry of this commitment period. The revocation must be made before the last day of the month of the first calendar month of the calendar year from which it is to apply.

Example:

Small business owner K. submits an option declaration for 2015.

K. must pay sales tax up to and including the year 2019. He can revoke the option declaration at the earliest as of calendar year 2020 (revocation period until 31 January 2020). If no revocation is made, the sales tax liability will remain in force. Hence K. has only one month after the commitment period has expired in which to submit the declaration of revocation!

The effectiveness of a timely declaration (option/revocation) is always determined with respect to the first of January of the desired year. Sales made prior to the effective date of the declaration must be handled according to the rules as they previously applied. This also applies when the invoice was only issued or payment made after the effective date. However, these sales must be taken into account in the sales tax advance return (only) in the time period in which the tax liability was incurred.

Example:
An entrepreneur (who owes tax upon payment) forgoes the exemption from sales tax as a small business owner as of 1 January 2020. In December 2019, he provides one more EDP service for an Austrian customer. The invoice is not issued until January 2020, and payment does not arrive until February 2020.

Solution:
Because the EDP service was provided still during the time as a small business with sales tax exemption, it remains tax-exempt despite the tax liability option as of 1 January 2020. Therefore, no sales tax may be charged. The sales are to be entered in the sales tax advance return for February/for the first quarter of 2020 under item 000 and under item 016.

Input tax adjustment

If you switch from being exempt from sales tax to sales tax liability, you are allowed to carry out a positive input tax adjustment. This means: You may claim retroactively the entire input tax paid on current assets. A (pro-rata) retroactive claim is possible for fixed assets if their procurement (production) was within the adjustment period. For moveable fixed assets, the adjustment period amounts to five years; for immovable fixed assets, twenty years. For immovable assets used as fixed assets as at 31 March 2012, the adjustment period is ten years. For each year the full adjustment period falls short of, one-fifth, one-tenth or one-twentieth of the input tax can be claimed retroactively.

Example:

A small business owner buys a machine for € 20,000 plus € 4,000 sales tax in 2017 and switches to sales tax liability as of 2020.

Retroactive input tax amounting to €1,600 (two-fifths of €4,000) can be claimed, of which €800 in 2020 and €800 in 2021.

When you switch from sales tax liability to being exempt from sales tax, you have to pay back the corresponding input tax sums to the fiscal authorities.

An input tax adjustment for fixed assets will cease to apply, if the input tax to be adjusted does not exceed the sum of EUR 60.00 per year and fixed asset.

Small business owners in the Single Market

A number of special regulations apply to small business owners who are exempt from sales tax in terms of the trade in goods and services within the European Single Market:

Trade in goods

- f you “export” your goods to EU member states, you do not perform intra-community deliveries, because your personal tax exemption as a small business owner overrides tax exemption for intra-community deliveries. The supplying small business owner does not need a VAT ID number in this case and the delivery does not have to be entered in the recapitulative statement. There is therefore no difference as compared with a domestic supply.
- You do not realise any intra-community acquisitions if you “import” goods from the EU area and do not exceed the acquisition threshold (“imports” in the previous or ongoing calendar year up to a maximum of € 11,000). You are treated in other EU member states like a private person. The supplier charges you the sales tax applicable in the respective country.

If the acquisition threshold is exceeded or waived, the following applies:

- You need a VAT ID number, which you must disclose to the EU supplier.
- The EU supplier must draw up a net invoice (tax-exempt intra-community delivery).
- You must pay tax on an intra-community acquisition, i.e. you must calculate the sales tax yourself based on the net invoice (acquisition tax).
- You must pay the acquisition tax to the fiscal authorities, because small business owners are not entitled to deduct input tax.

You can waive the acquisition threshold by means of an informal application. The use of the VAT ID is also considered a waiver of the acquisition threshold. It applies to “imports” from all EU member states. The waiver commits you for two calendar years.

Tip:
A waiver of the acquisition threshold makes sense only if you “import” goods from EU member states where the sales tax is higher than it is in Austria.

Trade in services

Should an Austrian small business owner provide any other service to an entrepreneur located in another EU country, the place of performance must first of all be identified. If this is abroad, the tax liability is transferred to the foreign recipient (reverse charge). As a result, no registration in the respective country is necessary, but this service must nevertheless be entered in the recapitulative statement. The prerequisite is that the small business owner must apply for a VAT ID number for this purpose.

The reverse is true if a small business owner receives another service from an entrepreneur from another EU country who has neither a registered office nor a permanent establishment in Austria and this is taxable and subject to tax in Austria. In this case the tax liability is transferred to the Austrian small business owner.

Important:
The small business owner is obligated to report and pay the tax liability. Input tax cannot be deducted.

Amendment from 1.1.2019

Note that a threshold of EUR 10,000 applies to services “in electronic form” to EU consumers from 1.1.2019. More information is available in the leaflet “Dienstleistungen an ausländische Privatkunden – B2C-Leistungen” (services to foreign private customers – B2C).

Small business exemption regulation and VAT ID number

The fiscal authorities allocate a VAT ID number to small business owners who are exempt from sales tax only upon application.

You can find the U 15 application form on the home page of the BMF.

You must credibly show on this form why you need a VAT ID number. Reasons for this could be that you have exceeded the acquisition/service threshold or have waived the application of the acquisition/service threshold; or because you have received or procured other cross-border services which necessarily result in a tax debt for the recipient of the service.

Note:
If you opt for sales tax liability, you will get your VAT ID number automatically from the fiscal authorities.

Regulations for invoicing

Important:
If you opt for the exemption from sales tax, you cannot include sales tax in your outgoing invoices. If you do it anyway, despite not having submitted an option declaration, you will owe the sales tax (tax liability by virtue of the invoice) and will still not be entitled to deduct input tax.

Unlike other entrepreneurs, you do not have to show your VAT ID number on your invoices. However, you must make reference to the exemption of sales tax. One possibility is the addition: "Exempt from sales tax on account of the small business exemption regulation."

Sales tax liability for small business owners who are exempt from sales tax

Since deliveries and services are exempt from sales tax, small business owners usually do not have any sales tax liability. But there are exceptions.

- Sales tax is illegally billed (tax liability by virtue of the invoice)
- for taxable intra-community acquisitions, if the acquisition threshold was exceeded or its application renounced
- for services supplied by foreign companies, if the place of supply is in Austria (reverse charge - RC)
- for supplies within Austria by foreign entrepreneurs (deduction procedure)
- In respect of certain foreign sales (e.g. for services in electronic form to consumers in the EU, which exceed the threshold of EUR 10,000 [from 1.1.2019]).

Sales tax advance return and annual statement

Small business owners who are exempt from sales tax do not have to send a sales tax advance return to the fiscal authorities, unless they have been requested to do so.

For advance return periods for which sales tax has to be paid (e.g. on account of taxable acquisitions – see trade in goods above), an internal sales tax advance return has to be prepared. The official form (U30 form – downloadable at www.bmf.gv.at) or a form created by yourself that is identical in content can be used for this purpose. The internal sales tax advance return remains in your accounting.

In principle, small business owners exempt from sales tax do not have to submit a annual sales tax return either. An annual sales tax return must be submitted only if sales tax had to be paid in the assessment period (calendar year), e.g. on account of taxable intra-community acquisitions.

If you have opted for sales tax liability, the general regulations of the Sales Tax Act apply. You can find more information in our information leaflets "Sales tax advance return" and "Sales tax annual return".

Perils of the small business exemption regulation

The greatest difficulty consists of the fact that you are incapable of knowing with any certainty at the onset of your activity whether you are going to exceed the turnover limit in the current year. Nonetheless, you have to decide on the spot whether you want to include sales tax in your invoices.

Example:
Entrepreneur K. believes that he will remain far below the limit in the first year of his activity. Since his customers are private persons, he does not want to pay any sales tax and thus does not include it in his invoices. Due to the unexpectedly good development of his business, however, his turnover exceeds the limit as early as September.

With this, all sales in the first year of business become retroactively subject to sales tax. Whether he can invoice the sales tax to them retroactively depends on the civil law agreement with his private customers.

Another problem is the long commitment period of the option declaration (5 years).

In order to avoid any problems in the context of the small business exemption regulation, it is vital to assess the future development of the business as accurately as possible.

Tip!
If your customers are predominantly companies that are entitled to deduct input tax, you should opt for the sales tax liability. It is advantageous to your customers: they do not incur any costs due to sales tax. If you opt for the exemption from sales tax, you have to take into consideration the non-deductible input tax in your price calculation. Otherwise, your customers would have to pay a higher price. Your advantage is that the risk is removed of exceeding the small business limit. In addition, you can claim the input tax deduction.

If you opt for sales tax exemption, you must pay strict attention that you do not exceed the limit.

Input tax deduction in the case of sales tax inclusion without option declaration

Time and a again, the question comes up whether the customers of small business owners are entitled to deduct the sales tax included in an invoice as input tax if the small business owner has not submitted an option declaration and does not pay the sales tax.

According to administrative practice, such an approach is only possible if the invoice shows all legally required information (including VAT ID no.) and it is not obvious to the customer that the small business owner has deliberately omitted to pay the sales tax to the fiscal authorities. In order to avoid discussions in the event of an audit, it might be useful if the customer requests that the small business owner submit his tax number and option declaration.

Settlement with credit note

If the customer issues a credit note for the service rendered by the small business owner, he is not entitled to deduct input tax if the small business owner has not submitted an option declaration.

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