

Taxes

Indirect Taxes

VAT - Value Added Tax

VAT on services

The Act deems services all other turn over that is not a delivery of goods; interestingly enough, a restaurant is deemed to execute a service, and not the delivery of prepared food and drinks.

As a rule, services are executed at the seat of the business person, or of the respective branch actually executing such service. Consequently, the seat inside or outside the national territory determines if the turn over from services is subject to VAT or not. However, there are some exceptions:

- a) some services are deemed to be executed on the place where the business person actually executes his obligation, e.g. services in connection with real estate, cultural, scholarly, teaching, entertaining activities, services on movable objects. In particular, the services of an agent are deemed to be executed on the same place where the main obligation is executed.
- b) Some services are deemed to be executed on the place of the customer if the customer is himself a business person: amongst those services are
 - I. the transfer of all sorts of intellectual property and know how,
 - II. services related to public relations and advertising,
 - III. the services of attorneys, CAs / CPAs, and legal, economic and technical counselling in general,
 - IV. the leas of staff,
 - V. telecommunication services.

The obvious consequence of this rule is that the “export” of intellectual services is free of German VAT, thus reducing the price of the service and giving an advantage to German based business persons. On the other side, on the grounds of a special rule in the VAT – Decree, such services of a business person based outside one of the EC – Member States are deemed to be executed in Germany, which increases the price for such services for the German customer.