

Increase in Swiss VAT rates may affect tax payers today already

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BACKGROUND

At the end of 2022, the Swiss people approved an increase in VAT rates as of 1 January 2024.

Consequently, the following VAT rates will apply from 1 January:

	SO FAR	NEW
Standard rate	7,7 %	8,1 %
Reduced tax rate	2,5 %	2,6 %
Special rate for accommodation services	3,7 %	3,8 %

As usual, delimitation issues arise in the case of tax rate increases to a certain point in time (e.g. in the case of several partial services, periodic services or in the case of a discrepancy between the time of conclusion of the contract and the time of supply beyond the validity periods of the respective old or new tax rates). This article is intended to shed light on some essential aspects that taxpayers should consider before 1 January 2024 against the background of the upcoming tax rate change.

RELEVANT EVENT FOR THE DETERMINATION OF THE TAX RATE

In principle, only the **time of supply** or (e.g., in the case of permanent services) the **period of supply** is decisive for the applicable tax rate. This is all the more relevant because in Switzerland the accrual of the tax is in principle independent of the time of performance of the service. Rather, the tax accrual depends on the date of invoicing or the date of receipt of the payment. The date of invoicing or payment, on the other hand, is not relevant for determining the applicable tax rate.

PARTIAL PAYMENTS OR PARTIAL INVOICES

In the case of **partial payments or partial invoices**, the services provided up to 31 December 2023 must be invoiced at the previous tax rates, while those provided from 1 January 2024 must be invoiced and settled with the FTA at the new tax rates.

PERIODIC BENEFITS

In the case of periodic services, e.g., magazine subscriptions, the **period of service provision** is decisive.

In connection with **periodic services** that are partly provided after the tax rate increase (e.g., magazine subscriptions, SaaS for consumers), an apportionment of the consideration pro rata temporis is to be made. If the service provider cannot know at the time of sale until 31 December 2023 when exactly the service will be provided (a typical example would be the multi-ride ticket for ski lifts with immediate validity), the time of sale is exceptionally decisive for the applicable tax rate.

ADVANCE PAYMENTS

With regard to **advance payments** for future services, it should be noted that the portion attributable to the period from 1 January 2024 must already be invoiced and settled at the new tax rate if it is already known at the time of the advance payment that the service will be provided in whole or in part after 31 December 2023.

REVERSE CHARGE

As far as the **Reverse Charge** is concerned, here too only the time or period of the provision of the purchased service is decisive.

ANCILLARY SERVICES

According to the generally applicable rules, **ancillary services** are treated the same as main services for tax purposes and share their VAT fate. For example, if a car showroom sells and delivers a passenger car including free service for the first two years on 12 December 2023, the purchase price will be invoiced at the current tax rate of 7.7%. The free service for 2 years included in the sales price is treated as an ancillary service and is therefore also subject to the tax rate of 7.7%.

TURNOVER CORRECTIONS

Adjustments of the consideration received are to be adjusted at the tax rates applicable at the time (or period) of supply.

INVOICING

From an administrative point of view, for services that are subject to both the previous and the new tax rates due to the period of their provision and are listed on the same invoice, the date or period of the provision of the service and the respective amount share attributable to it must be shown separately. If this is not possible, all services invoiced must be invoiced at the new, higher rates.

Ultimately, the principle of "tax invoiced is tax owed" also applies in connection with the tax rate change, i.e. the tax shown in the invoice is the tax to be settled with the FTA, even if it is excessive. This is the case if an invoice shows the new tax rates with respect to services provided before 1 January 2024. A subsequent correction of the tax can only be made if a correction of the invoice is made in accordance with Art. 27 para. 2 let. a VAT Act or the service provider can credibly demonstrate that the Swiss State has not incurred any loss of tax as a result.

The new tax rates can be declared in the VAT statement forms for the first time from 1 July 2023.

OTHER

Further peculiarities and special cases must be taken into account in particular for rental, leasing and commission contracts as well as in connection with the input tax deduction. Taxpayers who account according to the flat-rate tax method also have to consider adjustments in the applicable tax rates.

Here, as well as in certain sectors with complex service relationships (e.g., the energy or construction sector), it is advisable to check the concrete effects on one's own business as early as possible and to implement appropriate measures. Tax rate changes are by no means unusual in Switzerland and the recent past shows that the correct handling of critical issues has been the focus of e.g., VAT audits by the FTA.

CONCLUSION

An important date for the upcoming tax rate change is 1 July 2023, as from this date it will be possible to settle accounts with the new, increased tax rates. In general, it is important to ensure that the automated booking systems are adapted in good time.

Experience with tax rate changes in the past shows that constellations regularly arise in practice that require a case-by-case consideration and cannot be answered without further ado. In such cases, it is advisable to consult an expert and clarify the questions directly with the FTA, if needed.