# Economic impact of VAT change (TOMS) in Germany (as of 1 Jan 2022)

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**Agreed Text for Immediate Release**

Imminent VAT changes will affect non-EU based travel companies selling leisure travel to Germany. It is already a significant deterrent to business, will harm the domestic supply chain and result in significant loss of tax revenue. **Industry modelling indicates a risk of >€100MN in lost tax revenue in 2022 and serious damage to the tourism supply chain in Germany**. See summary of financial impact in the Appendix below.

**The new treatment, effective 1st January 2022, imposes significant administrative and financial burden on Germany's $41.8 billion (2019) dollars inbound tourism industry,** especially the tour operators, travel companies and travel advisors who account for much of the more lucrative international business in a year when Oberammergau is poised to help restart the inbound travel economy, already the hardest hit by the Coronavirus pandemic.

**The change would require non-EU businesses selling German product to consumers to register for VAT in Germany and pay VAT on the full retail price of the package.** They would be able to recover input VAT (e.g. VAT charged by a hotel) on any services bought directly. The net effect is highly inflationary in terms of retail cost, and prohibitive in terms of administrative cost and complexity.

**Financial loss to Germany**

- **Reduce German tax revenue because non-EU Visitors visit other European destinations.**
  - This would occur because the change is a deterrent both to retailers who will not want to register for VAT not incur the administrative burden, and to clients, who will not welcome the increased cost.
  - Should this change in treatment occur, American and other non-EU sellers will offer less German product and encourage travel to other European destinations. Demand for European vacations is high in North America: retailer and travelers have choices. France, Italy and Spain are already ahead of Germany among intended destinations.
  - Industry modelling suggests a loss of only 5% of leisure travel would require 50% of all global international tour operators and travel agents currently selling inbound travel to Germany to register in order that Germany would recover sufficient revenue to offset the lost business. As most still do not know of the obligation, this is highly unlikely.

- **Domestic intermediaries and wholesalers will be impacted**
  - This is because it would be more cost-effective for non-EU buyers to book individual services directly as input VAT could be recovered.
  - To compete, EU-based wholesalers would have to cut margin or risk removal from non-EU buyers' purchasing supply chain.
  - If Germany were a priority destination and local purchasing required, non-EU buyers could establish a subsidiary in a low-cost EU location to source German product.

<u>**Administrative and Financial Uncertainty**</u>

- **It is not clear whether product already sold but not yet delivered will fall within scope.** If it does, operators may cancel rather than risk running programs at a loss, further damaging the supply chain.
- **It is an unprecedented move by an EU state and would require cooperation from tax authorities in all source markets.** This cooperation is far from certain given the legal risk (see below).
- **The administrative burden for filing and collection is extraordinary.** Not only would this require every non-EU tour operator, travel agent and other seller of German packages globally to understand this new rule and register for German VAT within the next seven weeks, the resources required by the German tax authorities to enforce filing and payment would likely be well beyond any staffing plans.

<u>**Legal Jeopardy**</u>

- **If the changes are implemented, multi-jurisdictional legal challenge is certain.**
- **For example:** an agent and operators buys packaged product from an EU-based wholesaler.
- The package includes accommodation, hospitality and other services: these will include non-recoverable input VAT payable in Germany by individual suppliers.
- The wholesaler must add their own commercial margin and then add VAT on the whole package when invoicing a non-EU client.
- While the VAT charged by the wholesaler may be recoverable by a VAT registered non-EU retailer, the input VAT on the individual services within the package would not be.
- This 'German package cost' is part of the cost of sales for the retailer, all of which would be subject to sales tax payable to Germany.
- This would constitute double taxation and is contrary to international norms.
- On general principles, as the value-adding services and cost of packaging (design, marketing, sales commissions etc.) take place outside the EU, Germany seeking to tax them is anomalous.
- **In the US, the biggest non-EU inbound market to Germany, there would be, in effect, a sales tax on American customers.** This will unquestionably raise concerns with US authorities.

## Next steps

**We recognize that an EU-wide reform of TOMS will take time, and meanwhile strongly encourage Germany maintain the status quo while a more thorough impact analysis is made: nationally and regionally.** This will rapidly restore market confidence and ensure Germany retains the VAT revenue related to the services visitors enjoy in Germany.

**The virtue of the status quo is that it is administratively simple: it works, and it allocates tax revenue in a rational way.** The proposed change would constitute an act of considerable financial and diplomatic harm at a time when restoring confidence and economic stability are vital.

**It is already too late for some operators who have chosen to reduce their exposure to Germany, unless a suspension is announced soon, further reduction will follow.** This will harm suppliers and intermediaries in Germany at a time when the domestic and inbound industry is still under acute stress.

## *Appendix: Impact on German tax revenue*

*The following analysis applies to hotel revenues only and do not take into account loss of in-destination spend and other packaged components, upon which most VAT will be collected and remain in Germany. In general, long-haul visitors spend more per day than others.*

| **In case of 5 % less leisure trips to DE the Federal Treasury loses:**<br><br>59€ x 2 Mn trips = **118 million €** | **Only 1 % less business trips to DE**<br>(2019: 195.4 million trips) correspond to a<br>**loss of**<br>**146 million €** |
|---|---|
| Additional VAT income based on non-application of TOMS for an average hotel overnight stay worth 1,000€ is 6€.<br><br>Each hotel overnight stay worth 1,000€ which does not take place if non-EU travel companies are incentivized/forced to move business out of Germany results in a loss of 59€ VAT for the Federal Treasury.<br><br>That means you need at least around 50% * 6€ * all German international inbound leisure trips of 40 Mn to match the loss of 5% * 59€ * 40 Mn.<br><br>(NB: Without taking job losses due to a reduced offer of Germany as a travel destination into account.) | If we assume that this is only concerning 1% of business travels in Germany (2019: 195.4 million trips) this would already correspond to a loss of 115 million € (1.95 million B2B hotel overnight stays x 75€ amounts to 146 million €).<br><br>(NB: Conservative estimate of 1 % of business travel is due to essential business needs, location of business partners and in-person-meeting requirements while leisure travel is more flexible in terms of location) |

*This illustration does not yet address the loss of corporate travel VAT, which could also be very significant. Currently German corporate travel agent clients cannot deduct their VAT; following the proposed VAT change, clients of non-EU corporate travel agents can now deduct their VAT due to the non-application of the TOMS. If just 1% of corporate travel services would in the future be provided from outside of the EU into Germany, this would already create an additional loss of VAT revenue of around 146 Mn € bringing the total impact above €230m loss of VAT income for the German Treasury.*