

# Value Added Tax in Tourism - Part II

## Tour Operators' Margin Scheme

For Tour Operators, Package Tour Operators,  
DMCs with MICE and Business Travel



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# **Value Added Tax in Tourism - Part II**

## Tour Operators' Margin Scheme

For Tour Operators, Package Tour Operators,  
DMCs with MICE and Business Travel

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# Preface to the 1st edition

In the course of the development of the case law of the European Court of Justice and the German Supreme Tax Court (BFH), an extension of the tour operators' margin scheme can be observed. The requirements for the application of this special form of taxation have been gradually reduced. Initially, since 2013 the German tax authorities include the activities of an undisclosed agent in the special regulation. Since 18.12.2019, B2B travel sales have also been affected. The significance of the Tour Operators' Margin Scheme beyond the sale of holiday trips also now for service products of MICE providers, organisers of trade fair and seminar packages, company anniversaries, company outings and events has led me to dedicate a separate volume II on "Value Added Tax in Tourism" to this topic.

The present 1st edition is dominated by the far-reaching changes to the German § 25 UStG, which have been implemented with the „*Gesetz zur weiteren steuerlichen Förderung der Elektromobilität und zur Änderung weiterer steuerlicher Vorschriften (JStG 2019)*“ (Act on the Further Tax Promotion of Electromobility and the Amendment of Further Tax Regulations). The introduction of multi-level margin taxation (B2B TOMS for short) is THE central tax change in the travel industry. It has far-reaching consequences on the operational structure and pricing of the companies concerned.

Less than ever, tax regulations can ignore the economic reality of a networked world. Companies act in a highly flexible way. They react to competing taxation systems and the resulting market opportunities. This is especially true for the digitalized travel industry. With its internationally networked teams, it is able to directly address internet-savvy and price-sensitive customers in the European Union from outside the scope of the EU VAT Directive and across national and language borders. Travel companies in the EU have the disadvantage. All the more so, the more thoroughly their tax administrations adhere to the precise application of EU law.

From 2013 to December 2019, the German travel industry went through a period of legal uncertainty in the exercise of the option to apply B2B margin taxation and to create individual taxable amounts.

Since the German *Jahressteuergesetz 2019* (Annual Tax Act) came into force, new questions have arisen. These concern the implementation of multi-level margin taxation and related tasks, such as the determination of each place of supply where there are multiple parties involved in a supply chain or the application of the Use & Enjoyment Rule when purchasing a uniform travel service via several package tour operators. The handling of intercompany flight sales and the application of the destination rule in connection with cross-border flights have also not been clarified.

Travel revenues include different service contents, which do not allow a general assessment due to a variety of framework parameters, such as the countries of residence of the contractual partners. In addition, its tax treatment is only scalable and automatable to a limited extent, which poses a particular challenge for travel portal operators.

This Volume II "Value Added Tax - Tour Operators' Margin Scheme for Tour Operators, Package Tour Operators, DMCs with MICE and Business Travel " is intended to serve as an aid for travel companies and their tax advisors - as well as for accounting staff and students of the travel industry - in their daily business and to answer practical margin tax questions. It is a supplement to the basic volume I " *Umsatzsteuer in der Touristik - Regelbesteuerung der Leistungsträger, Vermittler und Reiseveranstalter mit Freizeitwirtschaft* " (Value Added Tax in Tourism – Normal VAT scope of Service Providers, Agents and Tour Operators with Leisure Industry). In order to avoid redundancies, reference is made to the basic volume for topics not exclusively specific to the margin scheme. However, margin taxation is not completely omitted there. It is, for example, edited in the context of the activities of undisclosed agents or the delimitation to intermediary activities.

Multi-level margin taxation does not fit in with the entrepreneurial effectiveness of the travel industry and is therefore built on thin ice. In its simplifying simplicity, the existing special regulation is not designed for the B2B onwards sale where there are multiple parties involved in a supply chain. This creates numerous complications and uncertainties for the travel entrepreneur. In the absence of a corresponding application decree, I will answer questions about the changes in the law and their effects on the travel company to the best of my knowledge and belief on the basis of the existing legal logic.

Of course I aim to be correct and complete in my statements, but I must exclude liability claims of any kind.

I would especially like to thank my partner Dietrich Wagner for his emotional and technical support in the creation of this book.

I wish the readers much pleasure with the practical implementation.



Berlin | Montevideo June 2020

*Cyrilla Wolf*



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