

Certified cash register (CCR): circular letter will have to clear uncertainties

The certified cash register, also referred to as the white cash desk, has been required for some time in the restaurant and catering industry. However still a number of uncertainties exist. The difference between the supply of meals and drinks and catering or restaurant services remains difficult.

Why is this distinction important?

When a taxable person sells meals and drinks (to a customer), this transaction can be looked at from two different angles: (1) as a supply of goods, (2) as the supply of restaurant or catering services.

Why is this distinction important?

- The **VAT rate**: when supplying catering or restaurant services 12% VAT is due on the meals and 21% on the drinks, in case of a supply of goods (food products) the reduced 6% VAT rate applies in most cases.
- The **place of supply**: where does the supply takes place, where VAT will be due.
- For the **certified cash register** it is important to judge whether or not the 25.000 euro threshold is reached. The taxable person who remains under the threshold does not have to use the CCR.

Supply of meals and drinks at the taxable person's premises

The circular letter refers to 'a space' of the taxable person. This can be both inside and outside. The taxable person does not have to own the space, rented space also qualifies.

In case the taxable person has a space **inside**, where the clients use this infrastructure to consume their food on the spot, this is a restaurant service. The fact that only standard food is available, that the infrastructure is temporary or movable, or how comfortable the infrastructure is, is of no importance.

When customers consume food and drinks **outside**, this still can qualify as a restaurant service. But only in case one or more (bar) tables or a (fold-out) bar is foreseen, and additionally one more extra service is provided:

- One additional infrastructure element making the consumption more pleasant such as parasols, music, table dressing, ...
- Possibility to be seated.
- Table service.

If no additional services are provided, the supply of drinks and meals is considered as a supply of goods.

In case the taxable person has a space both inside and outside, it should be analyzed for each transaction separately whether or not the conditions are met.

The taxable person supplies meals and drinks in another place

The situation is different if food and drinks are supplied in another place (at the client's premises or in a place chosen by the client). Think of catering services, food trucks or cook-at-home. Also these supplies can be a supply of services or a mere supply of goods.

In case the taxable person only supplies food and drinks without any further intervention, he performs a supply of goods.

In case there is also a human intervention of the taxable person, the supply becomes a catering service:

- Preparation/heating of the meals on the spot.
- Serving the meals, cleaning up of the tables, dish washing.
- Arranging of the buffet.

Note that this should be an intervention of the taxable person itself, not of a third party. It should be a genuine third party: abuse could occur when a linked party (e.g. an affiliate) would take care of these interventions. In this way a catering company could in an artificial way make sure that these service would not be taken into account for the 25.000 euro threshold.

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