

Electromobility's electricity tax implications in Germany

The massive expansion of electromobility in recent months is affecting many areas. After electric car purchases had for a long time remained at a low-level, new registration figures for pure battery vehicles and plug-in hybrids multiplied last year. Car buyers registered 194,000 new battery vehicles in 2020 - 30,000 more than in the combined previous seven years. These developments have also led to a need for action in the area of electricity tax.



In 2018, various clarifications and simplifications for electromobility were introduced in the Electricity Tax Act. As a result, there are now explicit regulations for most of the classic electricity supply constellations in the e-mobility context, including:

- » Energy supply companies selling electricity via public charging stations;
- » Private customers purchasing electricity from energy supply companies for self-operated charging stations;
- » Industrial companies selling electricity to employees, customers and suppliers via their own charging stations.

In practice, however, new models, contractual arrangements and supply constellations are constantly emerging. For example, various service providers, such as charging station operators and roaming

service providers, are being integrated into the electricity supply chain between energy suppliers and electricity users. Private customers no longer only want to fill up with electricity at their own or public charging points, but also want to generate their own electricity and sell it to third parties.

This is where the current electricity tax law has reached its limits, with a risk of double taxation and uncertainties about determining the tax debtor.

Operational charging stations at industrial companies

Companies in the manufacturing sector must deduct the electricity used for electric vehicles when applying for tax reliefs for energy-intensive companies. Such consumption is not eligible for a tax concession. This applies regardless of whether the electric cars have been used for the company's own operations or for other purposes. Since 2020, the official forms for tax relief explicitly ask whether the electricity claimed for relief has been used for electromobility purposes.

Definition under electricity tax law

It should be noted that electromobility in the

electricity tax sense includes all externally chargeable vehicles with a road traffic permit, i.e. both pure battery electric vehicles and plug-in hybrids.

In contrast, electric vehicles that do not have a road traffic permit and are only used on company premises, such as electric forklifts or lift trucks, are not an issue. They do not fall under the electricity tax definition of electromobility and therefore do not have to be excluded from the subsidised electricity quantities in tax relief applications. Electric bicycles used only on company premises also continue to be eligible for tax relief.

Installation of (calibrated) meters?

The Electricity Tax Ordinance provides a simplification rule for the delimitation of electricity quantities in tax relief applications. To the extent that electricity quantities used for electromobility cannot be determined accurately due to the non-existence of measuring or counting devices, a proper estimate that can be verified by a third party is permissible.

Unfortunately, however, electricity tax law is not the only legal framework to be observed. If, for example, benefits under the Renewable Energy Sources Act (EEG) are to be claimed, then measurement in compliance with calibration law is generally required. Also if the electricity is to be sold, then calibrated meters are regularly required.

Provider status

The supply of electricity in the context of electromobility, such as to employees, customers, visitors, etc., can lead to registration obligations under electricity tax law. In principle, anyone who supplies electricity to others becomes a supplier under

electricity tax law, i.e. they must apply for a corresponding permit from the relevant main customs office and submit annual tax returns on an official form.

Simplification rule

Fortunately, such a simplification rule came into force in 2018. To the extent that electricity that has already been taxed is purchased exclusively from the energy supply company and it is supplied exclusively for the purposes of electromobility, then this does not lead to supplier status. It is also irrelevant to whom the electricity is supplied, such as to own employees or third parties. In this case, registration and electricity tax registrations are not required.

Dispensing self-generated electricity

In practice, there are currently often problems with the interaction between the tax benefits for decentralised self-generation and the simplifications for electromobility. The result is usually additional compliance work with comparatively low additional tax burdens.

If tax-free, self-generated electricity is also supplied to third parties for charging e-vehicles, then the simplification rule for the electricity tax supplier no longer applies. Notification as a so-called restricted supplier as well as annual reports on electricity generation and electricity sales to the responsible main customs office are required. Furthermore, the effects on the tax exemption of self-generated electricity must be examined in each individual case.

AUTHORS

Dr. Karen Möhlenkamp

karen.möhlenkamp@wts.de
T + 49 211 20050601

Dr. Sabine Schulte-Beckhausen

sabine.schulte-beckhausen@wts.de
T + 49 221 348936213

Bertil Kapff

bertil.kapff@wts.de
T + 49 211 20050669

WTS Steuerberatungsgesellschaft mbH
Klaus-Bungert-Straße 7
40468 Düsseldorf
Deutschland
www.wts.de

THE CLIMATE PROTECTION, GREEN TAX & ENERGY HUB

The WTS Global Mindset Hub on Climate Protection, Green Tax & Energy consists of dedicated tax experts from WTS Global specialised in excise duties, energy taxes and green taxation.

The Mindset Hub monitors and discusses developments at EU level and in the individual states. The findings and lessons learned from the international exchange are regularly published in practice-oriented publications.

ABOUT WTS GLOBAL

With representation in over 100 countries, WTS Global has already grown to a leadership position as a global tax practice offering the full range of tax services and aspires to become the pre-eminent non-audit tax practice worldwide. WTS Global deliberately refrains from conducting annual audits in order to avoid any conflicts of interest and to be the long-term trusted advisor for its international clients. Clients of WTS Global include multinational companies, international mid-size companies as well as private clients and family offices.

The member firms of WTS Global are carefully selected through stringent quality reviews. They are strong local players in their home market who are united by the ambition of building a truly global practice that develops the tax leaders of the future and anticipates the new digital tax world.

WTS Global effectively combines senior tax expertise from different cultures and backgrounds and offers world-class skills in advisory, in-house, regulatory and digital, coupled with the ability to think like experienced business people in a constantly changing world.

For more information please see: [wts.com](https://www.wts.com)

IMPRINT

WTS Global
P.O. Box 19201 | 3001 BE Rotterdam
Netherlands
T +31 (10) 217 91 71 | F +31 (10) 217 91 70
[wts.com](https://www.wts.com) info@wts.de

The above information is intended to provide general guidance with respect to the subject matter. This general guidance should not be relied on as a basis for undertaking any transaction or business decision, but rather the advice of a qualified tax consultant should be obtained based on a taxpayer's individual circumstances. Although our articles are carefully reviewed, we accept no responsibility in the event of any inaccuracy or omission. For further information please refer to the author