

Summary
**Final Report on the Expert Opinion „PPP in Public Construction
Projects – VAT Refund System“**
**For the Federal Ministry of Transportation, Construction, and
Housing**

Berlin, March 29, 2005

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Appendix

1. Introduction

Due to the strained financial situation and high government debt load in Germany, the state is required consistently on the one hand to limit itself to its core functions, and on the other to determine to what extent private capital and know-how may be used on an increased basis for the procurement and provision of public infrastructure. Public Private Partnerships (“PPP”) may make an important contribution toward the realization of public investment and the modernization of the state. PPPs involve cooperation between the public and private sectors in connection with the provision of public services and infrastructure.

Prior to deciding whether a PPP should be implemented, a comparison is made whether the conventional procurement process, i.e. implementation through the public sector, or instead whether implementation through the private sector within the context of a PPP, is more economical. The VAT consequences of the PPP model were set out in an expert opinion from 2003 entitled “PPP in Public Construction.” The authors of the 2003 report determined that current German VAT law negatively influences the decision to implement infrastructure projects using the private sector. The public sector is able – within the context of different PPP models – to provide personnel-intensive services at 16% less cost, as the private partner must invoice such services with 16% VAT and if the public sector provides such services on its own they are not subject to VAT. This does not apply, however, to full service leases in which services are integrated and by which the services as well as tax-free rents are not subject to VAT. This means an increase in costs for PPP projects containing a large proportion of personnel-intensive services when compared to conventional procurement. The disadvantage of PPP models in comparison to conventional procurement which arise out of the VAT burden could be addressed on the one hand by not taking into account the additional VAT due with respect to PPP projects during the economic comparability evaluation, or on the other hand by reimbursing input taxes which are not due with respect to inputs used by the public sector in its non-entrepreneurial capacity.

In other EU member states there are so-called VAT refund systems which solve this problem by providing for the reimbursement of input taxes on inputs used by the public sector in its non-entrepreneurial capacity. In addition, rules were created in several EU member states under which a private party leasing property to the state in its non-entrepreneurial capacity may opt to subject the leasing arrangement to VAT.

On the basis of these determinations, the present expert opinion was commissioned by the Federal Ministry of Transportation, Construction, and Housing, in coordination with the Federal Ministry of Economic Affairs and Employment, and with acknowledgement of the Federal Ministry of Finance, to determine how a possible VAT refund system in Germany would impact PPPs in the area of public sector construction. In addition, the study was to examine the extent to which a potential option in Germany in cases of property rentals to the state in its non-entrepreneurial capacity would be possible and make sense. This inquiry is necessary, as the introduction of a VAT refund system would disadvantage the tax-free full service leases in comparison to situations where the state implements projects on its own account – because in such situations the private party cannot

deduct the input tax imposed with respect to the investment costs, whereas in the case of development in-house by the public sector, these costs are subject to reimbursement as part of the refund system.

2. Refund Systems in the EU

The refund system in the UK was introduced along with the introduction of the VAT in its current form in order to prevent the activities of municipalities from being burdened with VAT that would have had to have been borne by the local taxpayers. It was determined in the Netherlands that there was no equality of competition with respect to the provision of services between the public and private sectors. A refund system was introduced in the Netherlands in order to prevent public sector facilities from attempting to make use of structuring possibilities in order to be able to take advantage of the ability to deduct input taxes, thereby freeing the tax authorities from the task of investigating and preventing such abuses.

For these reasons, six EU member states have introduced to date different VAT refund systems alongside their local VAT laws. VAT refund systems were implemented in the following EU member states in the year given below:

- Great Britain 1973
- The Netherlands 2003
- Denmark 1985
- Finland 1994
- Sweden 1995
- France 1977

In general, the scope of the existing refund systems within the EU applies to all input taxes to which inputs of the public sector in its non-entrepreneurial capacity are subject. This means that in none of the referenced systems the reimbursement of input taxes is limited to those due in connection with a PPP: In general, it must be observed that in addition to VAT refund systems for public facilities at the local level (provincial and municipal levels), there are VAT refund systems for the central governmental facilities (federal ministries). In Great Britain, there is the peculiarity that the VAT refund system at the national level only envisions the reimbursement of input taxes imposed on particular services provided to particular ministries and/or governmental facilities. In the Netherlands, the compensation fund was established in 2003 with €1.167,8 Million, and in Great Britain, the annual refund volume at the municipal level is between €2,94 Billion and €4,40 Billion and at the ministerial level is approximately €3,66 Billion.

The following tables set out the scope and subjects of the existing refund systems:

Subjects

	GB	Neth.	Den.	Finland	Sweden	Total
Municipalities	X	X	X	X	X	5
Provinces	X	X	X			3
National Level	X		X			2
Additional entities	X			?		1

Scope

	GB	Neth.	Den.	Finland	Sweden	Total
Non-entrepreneurial activities				X	X	2
All inputs in general	X	X		X	X	4
Particular services	X		X			2
Tax-free inputs			X	X	X	3
Tax-exempt activities						
De minimus	X					1
all				X		1
Type of VAT						
Domestic	X	X	X	X	X	5
EU-countries		X				1

With reference to the compatibility of these systems with EU-Law, the EU Commission determined that such systems represented merely a financial-technical measure between different public sector facilities within the context of each individual country for the purpose of financing public sector projects. Accordingly, such measures were not in conflict with the 6th EU Directive.

The current refund systems may be divided into two different forms: the closed system and the open system. In the closed refund system, the parties eligible to use the system must exclusively finance the fund using funds available to them. If the refund system, for instance, represents a fund as in the Netherlands, it is financed by the parties eligible to make use of the system out of funds available to them. In doing so, the amount of the refund volume expected to be paid from the fund is

estimated based on the amount of non-deductible input taxes. If it then comes to an increase in the outsourcing of services, and an accompanying increase in reimbursement claims, funds must be placed in the closed system by the parties eligible to use it out of funds otherwise available to them, e.g. tax and fee revenue.

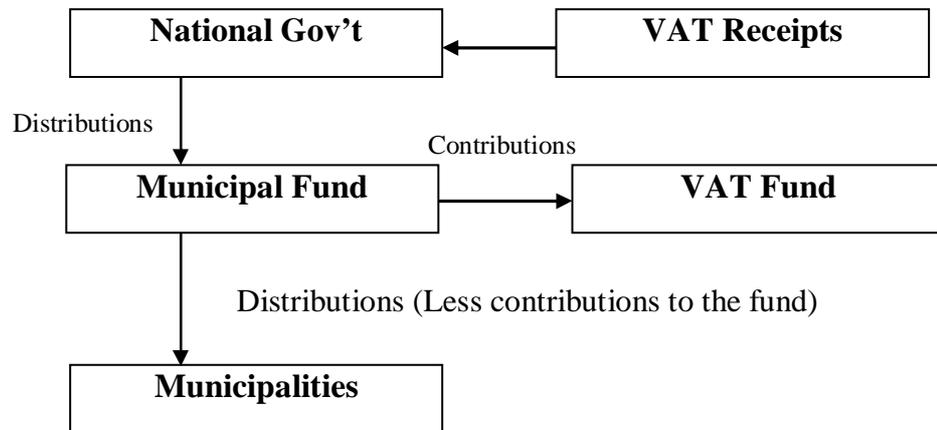
By an open fund, the parties eligible to make use of the system likewise make contributions out of funds otherwise available to them which may then be used for reimbursements. If it then comes to an increase in the outsourcing of services, and an accompanying increase in reimbursement claims, the increase in reimbursement claims is matched by increased contributions of VAT receipts. For this reason, the increased VAT receipts are contributed directly to the fund and are not available for allocation in the usual manner. The following table sets out the currently existing refund systems in the EU:

	GB	Neth.	Den.	Finland	Sweden	Total
Form of Reimbursement						
Refund System	X			X	X	3
Compensation Fund		X	X			2
Financing						
Open System	X	X		?		2
Closed System		X ¹⁾	X	?	X	2(3)

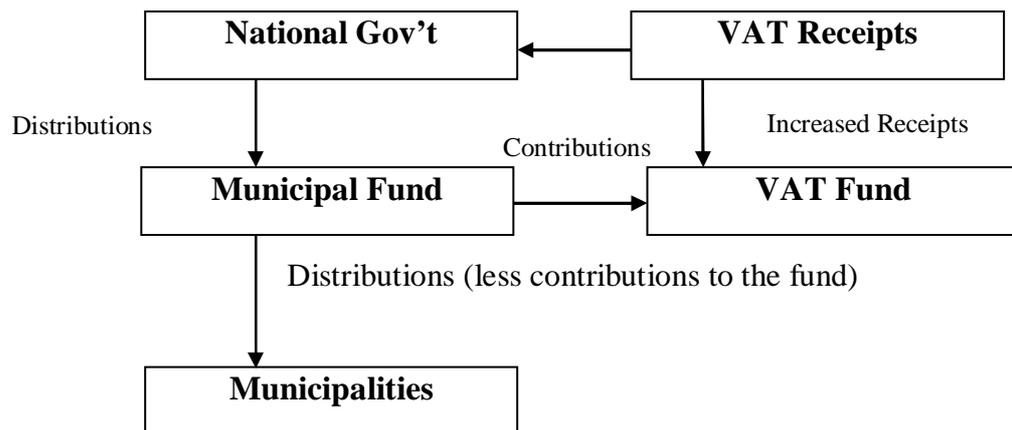
1) For foreign VAT

The open refund system will be present below in the context of a simplified version of the Netherlands's VAT compensation fund system. Municipalities are financed by the national government through a common fund into which the national government places the totality of funds available to all municipalities. The VAT revenues flow in their entirety to the national government. Upon the introduction of the compensation fund, funds which were to have been placed into the municipal fund were diverted instead to the compensation fund and were thereafter not available to be allocated to the municipalities. During the initial phase, the refund system functioned as a closed system as the parties entitled to use the system (municipalities) financed the refund requests out of funds otherwise available to them. This resulted in the first year in a reduction in the allocation of funds to the municipalities from the municipal fund. However, it was assumed in the Netherlands that the introduction of the VAT compensation fund would result in an increase in the outsourcing of services and consequently an increase in VAT receipts. This increase was estimated at 2% of the entire reimbursement volume. In the following year, the increased VAT receipts were contributed in full directly into the compensation fund so that such receipts were not available to the national government and so that the contribution from municipalities out of the municipal fund could be reduced by a corresponding amount.

Year 1



Year 2



The fact that a refund system leads to an increase in the outsourcing of services/investments – in both open and closed systems – can be accounted for as follows:

Initially, an average contribution is determined for the participants (e.g. municipalities) based on the amount of previously non-deductible input taxes. The average contribution is determined for municipalities of the same classification (for simplification purposes those of the same size). This means that the introduction of the refund system represents an advantage for those municipalities which may claim a higher amount of non-deductible input taxes than the average contribution which is to be treated as a reduction of the allocation to which they would otherwise be entitled. On the other hand, municipalities which generally may claim a lower amount of non-deductible input taxes than the average contribution are disadvantaged. There is therefore a particular attraction for municipalities which have heretofore on average contracted out fewer services – and which therefore could claim lower input tax reimbursements – to increase the amount of their reimbursement claims by contracting out more services where this may be done

efficiently. However, the maximization of reimbursement claims represents an attraction for municipalities which have traditionally had high amounts of non-deductible input taxes as well. The attractiveness of contracting out services is increased in an open refund system by the fact that increased refund claims do not need to be financed by participants out of funds otherwise available to them, but rather from the increase VAT receipts themselves.

In order to equalize the negative budgetary effects arising in the introductory phase between the municipalities which had, on average, lower expenditures than others, a minimum payment amount and equalization factor were introduced in the Netherlands along with the compensation system. Based on this system, a minimum payment amount is available to municipalities which have, relative to other municipalities, a low level of reimbursement claims. Such municipalities receive a distribution from the fund that is larger than the amount of non-deductible input taxes that they in fact had. However, as the total refund volume is determined based on the totality of all non-deductible input taxes incurred by all of the municipalities, the difference between the claimed reimbursement amounts and the minimum payments is made up by the municipalities which submit increased refund claims. During the introductory phase, such claims are reimbursed to these municipalities only to 95% (equalization factor). We have included a greatly simplified version of this mechanism in Appendix 1.

3. Possible Refund Systems in Germany

3.1 Scope and Subject

In general, the prevailing elements of the existing refund systems in other EU member countries are all equally plausible for Germany. The scope of a refund system could cover just as well all non-deductible input taxes incurred by the public sector in its non-entrepreneurial capacity, or could – as in Great Britain – be limited to certain fields of investment.

Keeping the goal in mind that a distortion of PPP vis a vis conventional procurement is to be avoided, a refund system to be introduced in Germany could have in general a wide range of eligible participants, which could include the federal government, the individual states, and municipalities as public sector bodies.

The introduction of a system limited to PPP-structures is also conceivable. Care would need to be taken with such a system in order to ensure that in-house procurement was not disadvantaged compared to PPPs. A disadvantage of conventional procurement as compared to PPPs would not be present in such a system if only the difference would be refunded between non-deductible input taxes incurred in the context of a PPP project and those incurred in the context of the normal procurement process. The examination of such a system was, however, not the subject of the current study and should, where appropriate, be examined more closely.

3.2 Financing a Refund System

As previously discussed, there are generally two forms of refund system – the open refund system and the closed refund system. Because the fiscal systems in the EU member states which currently have refund systems all differ from the German fiscal system, a clear recommendation cannot be given that an open refund system or a closed refund system should be introduced, or instead that multiple refund systems should be introduced in Germany. Against this background, two potential refund system models for Germany were discussed:

1. A refund system in which the federal government, the individual states, and municipalities are all envisioned as participants, and which could be an open or a closed system; and
2. a refund system in which the federal government is the sole participant, with 16 refund systems parallel to this one at the level of the individual states – with the states and corresponding municipalities as the participants. This model takes particular account of the German federal financial system.

3.3 Possible Models for Refund Systems in Germany

3.3.1 A Refund System for Federal Governments, States, and Municipalities

a) The Closed System

Prior to the introduction of a refund system an initial determination would need to be made regarding which taxes on public sectors inputs incurred in the non-entrepreneurial capacity are non-deductible at the various levels of the federal system. These amounts would have to be contributed to the compensation fund from the various levels of the federal system – federal government, states, municipalities – from funds otherwise available to them; provided that contributions due from the municipalities could be made at the state level; provided further that funds otherwise to be allocated to the municipalities would be reduced by a corresponding amount. Based on the amount of reimbursement claims submitted within the context of the refund system, reductions in the amount of funds available at the different levels of the federal system would need to be recalculated annually.

In principle, the reductions in the tax receipts and/or allocations available at the different levels – in combination with the reimbursements – give rise to a redistribution within the different levels. This is always the case where the calculation of the contribution amounts is not made for each individual participant entity, but rather on the basis on groups of similarly situated states and municipalities. Such a reduction in the amount of tax receipts arising from the introduction of a refund system would be advantageous for the states and municipalities which would be able to submit large reimbursement claims to the fund relative to the reductions in receipts. In contrast, states and municipalities which would be able to submit relatively small reimbursement claims would realize negative budgetary effects. The impact of such negative budgetary effects could be lessened through the introduction of a minimum payment system to be financed with equalization factors similar to the VAT compensation fund model in the

Netherlands. The reallocations within the system would give rise to the situation in which each participant in the system would attempt to maximize its reimbursement claims. This would in turn lead to an increase in the realization of investments and an increase in the usage of third-party services on the part of the public sector in which efficiency and economic feasibility analysis would play the leading role. To the extent that a private partner could provide a service more efficiently or for less cost there could be a shift from in-house project realization to the realization of investments through private partners.

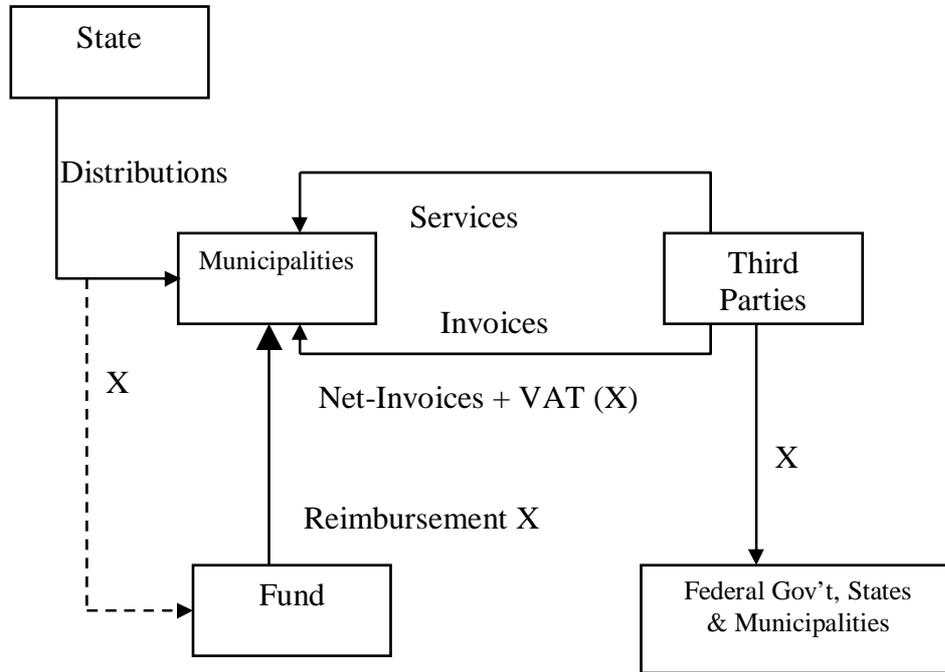
If the introduction of a refund system were to lead to increased VAT receipts, these receipts would, in a closed system, be distributed via the legally regulated equalization system to the federal government, states, and municipalities, whereas the increased reimbursement claims would lead to further decreases in the amount of funds otherwise available to the federal government, the states, and the municipalities.

b) The Open Refund System

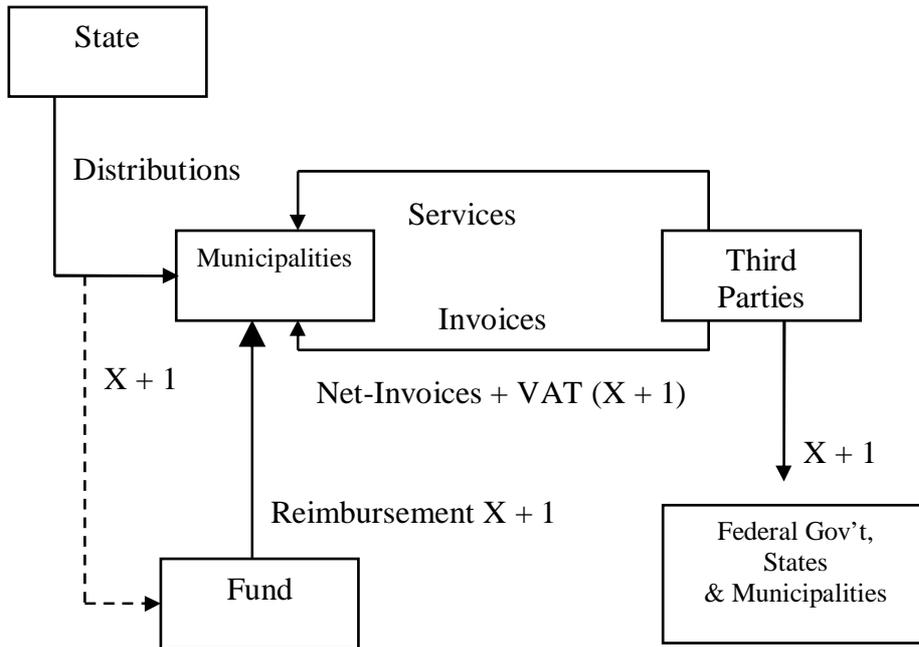
In the year of its introduction, the open refund system functions in the same manner as the closed system, as the participants contribute funds available to them into the fund which they expect to receive as reimbursement claims. In the following years, it is to be assumed that the introduction of the refund system would lead to an increased level of outsourcing of services which, in turn, would lead to an increase in VAT receipts and a corresponding increase in reimbursement claims submitted to the fund. These increased VAT receipts would be paid directly into the fund and would then be available for distribution to the fund participants. This means that these VAT receipts would not be first distributed as part of the normal equalization system. Increasing the outsourcing of services would, therefore, not lead to further reductions in receipts by the respective participants. Instead, the participants would continue to contribute amounts to the fund out of funds made available to them, and increased reimbursement claims would be financed through the fund directly by increases in VAT receipts.

The following diagrams illustrate the commonalities and differences in financing and reimbursement between the closed and open systems in their year of introduction and in the following years. For purposes of the illustration, the municipal level is simplified and it is assumed that financing would be accomplished through a general reduction in distributions from the states.

Closed and Open Systems in the Year of Introduction

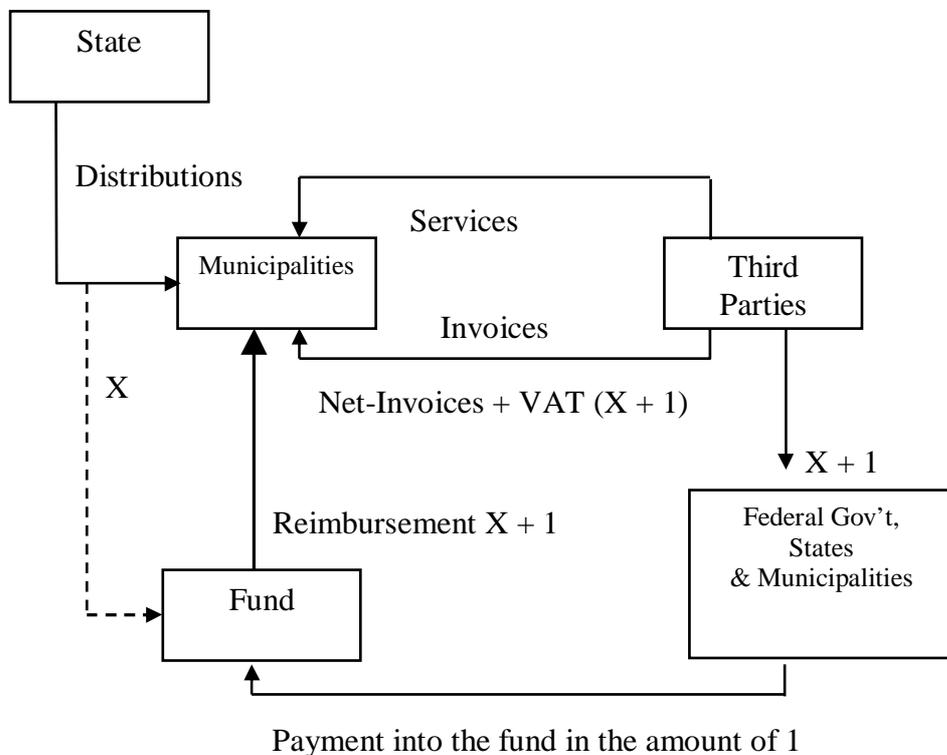


Closed System in the Following Year – Reimbursement Claims Rise to X+1



- ⇒ Increased VAT receipts from 1
- ⇒ Increased VAT reductions in distributions to the municipalities in the amount of 1

Open System in the Following Year – Reimbursement Claims Rise to X+1



- ⇒ Increased VAT receipts of 1 are paid directly into the fund

c) **Legal Parameters for the Introduction of a Common Federal/State Fund**

The distribution of receipts and expenditures at the federal and state levels which is tied to the Constitution only allows a common federal and state fund to the extent that such fund will be financed through the federal government and the states by input tax reimbursements in respect of the duties and responsibilities incumbent on the respective government levels (federal/state). For this reason, a fund, into which not only the federal government, but also the states, will be making contributions and to which they will each be submitting reimbursement claims, needs to be set up in such a manner that it can be ensured that the input tax refunds finance the duties and responsibilities of the respective levels of government. Accordingly, it needs to be ensured that the respective participants – federal government, states, and municipalities – receive in fact only those reimbursements from the fund that they have themselves contributed to the fund. This is a given in the closed refund system when the estimated refund claims are in line with the actual claims and/or when the appropriate participant makes an additional contribution to make up any shortfalls.

If this is not assured, then common financing of duties and responsibilities is only envisioned in the context of the constitutionally regulated cases of joint financing (Art. 91a, 91b, 104a para. 3, para. 4 Constitution), in which the federal government and the states – in the context of the constitutionally regulated guidelines – are allowed to jointly undertake the financing of duties and responsibilities. If it does not constitute a permissible joint financing, then the common financing of duties and responsibilities is not possible and would represent a breach of the constitutional prohibition against unfunded mandates (*Konnexitätsprinzip*). A corresponding rule applies for budget law purposes.

Financing a fund directly from VAT receipts (open refund system) would not be in harmony with the constitutional principle of continual fiscal planning contained in Art. 106 of the Constitution as the allocation of the VAT receipts would depend on a flexible allocation key which is determined by the amount of the then-current reimbursement claims. Earmarking of the common tax receipts for specific purposes is in any event possible in the joint financing context.

3.3.2 Refund Systems at the State and Local Level and at the Federal Level

a) **General Overview**

These refund systems take German's federal structure into account with the peculiarity that the municipalities are funded largely by distributions from the states which are based on state law. Moreover, the greatest need for investment is seen at the municipal level; giving an additional reason for making a distinction between states and municipalities on the one hand and the federal level on the other. For this purpose, a refund system would be introduced at the federal level along with 16 individual refund systems at the state and local levels. A reduction in receipts for purposes of establishing the fund would result at both the federal and state and local levels. Funding of the state funds would be undertaken by each respective state

directly, and based on state law, would be financing through a reduction in the distributions to the municipalities. This type of refund system could only be introduced in the form of a closed system. The particulars of such a system are set out in the context of a federal fund in Appendix 2.

b) Legal Parameters for the Introduction of Separate Federal and State Funds

In accordance with Section 26 of the Federal Budget Code, the federal government can establish special funds. Financing does not present a constitutional problem as long as the funds come exclusively from the federal budget. If reimbursements from the fund are made solely to the federal government, there is no breach of Art. 104a para. 1 of the Constitution. The principle of separate budgets in accordance with Art. 109 para. 1 of the Constitution is preserved.

A division of federal and state funds would preserve not only separate financing of duties and responsibilities but also the separate budgets of federal and state governments. The common financing and reimbursement of claims from states and municipalities is unproblematic as the municipalities are legally subordinate to the states. As a matter of principle, the right of the municipalities to receive equalizing distributions must be considered in connection with a reduction of the distributions to/from the states. Because a reduction in the distributions from the states is to be in the same amount as the estimated municipal reimbursement claims, there should in general be no impact on the municipalities' right to financial equalization.

3.4 Fiscal Impact of a Refund System

While estimating the reimbursement claim volume of a refund system with a broad reach on the federal, state, and local level, the problem arose that the non-deductible input taxes in the context of public sector non-entrepreneurial activities have, to date, not been calculated separately. Additionally, the extent to which receipts and expenditures of commercial activities for which input taxes are deductible are reflected in government budgets could not be identified. For this reason a rough estimate was made, which should be seen as a maximal estimate. Based on this estimate, several modifications were made and the VAT then determined based on administrative expenditures as well as levels of public sector investment. The estimated reimbursement claim volume expected to result is presented below:

Estimated Reimbursement Volume of a Refund System in Germany in €Millions

	Refunds From		Total
	Administrative Expenditures	Public Sector Investment	
Federal Gov't	834	842	1.676
States	1.547	905	2.452
Municipalities	2.766	2.554	5.320
Total	5.147	4.301	9.448

4. Option Possibilities Concerning Real Estate Leased to Public Section Institutions in their Non-Entrepreneurial Capacity

As previously referenced, buildings are leased to governmental entities for use in an official capacity on a tax-free basis as, according to German VAT law, there is no option to apply VAT to such activities. The corresponding costs incurred by the lessors as a result of the prohibition against deducting input taxes imposed with respect to lessor inputs are passed along to the public sector as part of the rent.

The following EU member states allow VAT to optionally be applied to the leasing of real property to governmental entities for use in an official capacity:

- Denmark
- France
- Ireland
- Austria
- Ireland
- The Netherlands
- Great Britain
- Sweden
- Finland

In particular, in countries where there are refund systems, the VAT does not influence the choice of whether a PPP project leases an accompanying building to a public institution or whether the public institution builds the building itself. Even though a VAT opt-in exclusively for the leasing of real estate to public institutions in their official capacity does not contradict the provisions of the 6th EU Directive, in our opinion the development of the law on this subject in the last several years – through which the option possibilities have been continually reduced in order to combat abuses – shows that no additional room for option possibilities in the real estate leasing and rental field is desired in Germany. As the introduction of such an option right would be accompanied by far-reaching changes to VAT law, the introduction of a refund system could instead be accompanied by reimbursements from the compensation fund to be made on a percentage basis upon receipt of tax-free inputs as is the case in Denmark, Sweden, and Finland. This would achieve the

same result as the introduction of an option right applicable to leases to public sector institutions in their official capacities.

5. Conclusion

Both the closed and open refund systems accomplish, through the reimbursement of non-deductible input taxes, the removal of the VAT disadvantage suffered by private sector provision of services and investments vis a vis conventional public sector procurement.

With a closed system, there is in principle no redistribution between the federal government, the states, and municipalities as each respective level makes contributes only those funds into the system that it will receive as reimbursements. If the financing of the fund is accomplished through averaged reductions in the distributions to the municipalities, this will lead to a competition between the municipalities. It is doubtful whether such a competition is desired. The same would apply at the level of the states if the fund were to be financed through averaged contribution amounts.

In general, the question must be asked to what extent a closed refund system makes sense as the participants are refunded the exact same funds they have paid into the system. Consideration of the non-deductible input taxes in the context of the economic feasibility analysis would likewise lead, without additional administrative costs, to the result that VAT would not influence directly the choice between a PPP and in-house project realization. Whereas a closed refund system based on a closed refund at the federal level and 16 closed refund systems at the level of the states could be implemented without interfering with the current VAT allocation regime, and without raising constitutional questions, however, considerations of the administrative complexity of such a system raise questions as to its effectiveness.

By contrast, an open refund system would act as a real incentive – particularly at the municipal level – as the municipalities would share directly in the increased VAT receipts generated by the contracting out of services rather than having the bulk of such funds flow to the federal and state levels. In addition to the constitutional questions inherent in such a system, the question arises as to the extent to which the federal government and the states would be willing to forgo, for the benefit of the municipalities, VAT receipts to which they would otherwise be entitled under the Tax Equalization Law. On the other hand, it must be considered at this point that, absent the introduction of a refund system, such additional VAT receipts would otherwise not be generated as such a system would be responsible for the additional receipts.

By contrast, inherent in open refund systems, i.e. a refund system at the federal level and 16 refund systems at the state level, is the problem that the tax receipts generated by the increased level of outsourcing do not completely flow back to the state in which the reimbursement claim arose.

It is in any event clear that the introduction of a refund system in Germany with a broad area of application at the federal, state, and municipal level would, based on Germany's federal structure, implicate fundamental fiscal allocation questions whether structured as an open or a closed system. A federal fund and 16 state funds would enable the introduction of a closed refund system within the confines of the

current constitutional structure, however the question remains of whether the associated administrative complexity is consistent with the achievement of the stated goal – placing the private provision of services on equal footing with conventional procurement.

Rather, in this regard, it should be considered whether the PPP's disadvantages for purposes of VAT taxation should be addressed in context of the economical feasibility analysis. It should additionally be considered whether a system limited to PPP projects (e.g. limited to PPP in the context of specific projects) would make sense and could be viewed as a pilot project. However, as the scope of this study was limited exclusively to the analysis of the transferability of refund systems existing elsewhere in the EU to Germany, no analysis was made of such a solution and would need to be the subject of further study. The refund systems existing in the EU, however, may not be implemented in Germany without complications.

Appendix

A simplified example shall illustrate the mechanism of the minimum payment amount. We assume that the minimum payment amount is €90 and that three municipalities apply for a refund of €130, €80 and €100, respectively, in their refund claims.

Greatly simplified example:

Assumption:

The assumed minimum amount to be paid out of the compensation fund is €90,00.

Municipality	Refund amount claimed (input)	
A	€130,00	
B	€ 80,00	
C	€100,00	
	Calculation of the refund	Refund out of the compensation fund
A	€130,00 x 95 %	€123,50
B	€ 90,00 > €80,00	€ 90,00
C	€100,00 x 95 %	€ 95,00
	Difference between the VAT refund and the VAT claimed	
A	€123,50 - €130,00 = €-6,50	
B	€ 90,00 - € 80,00 = €10,00	
C	€ 95,00 - €100,00 = €-5,00	
Total	€ 1,50	

This greatly simplified example shows that the municipalities claiming a refund higher than the minimum payment amount contribute to the financing of those municipalities who claim a reimbursement lower than the minimum payment amount. In this example, the difference of €1,50 would be used to finance further municipalities whose claim lower reimbursements than the minimum payment amount.

Appendix 2

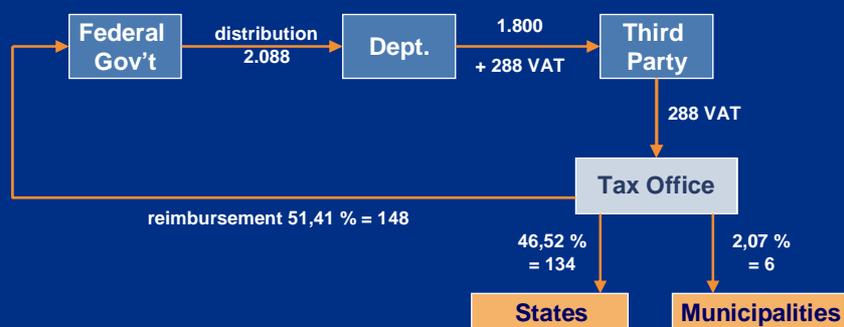
The closed federal fund as an example for the financing system
(simplified description of the purchase of a service by a department)



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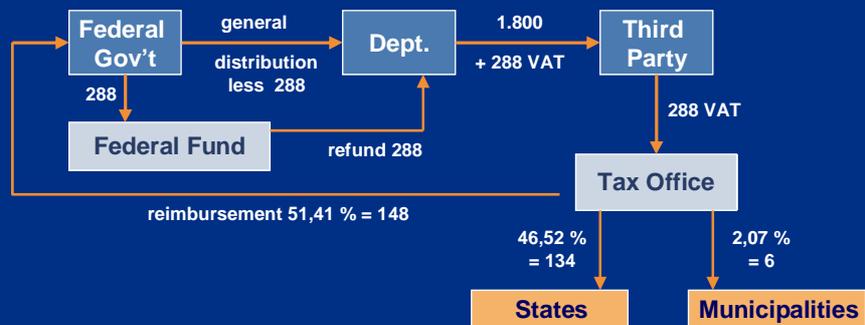
Federal Fund – Status Quo (1)

Assumption: A department places an order for a service in the amount of €1.800 plus €288 (VAT) with a third party



1

Federal Fund – Introduction of the Fund (2)



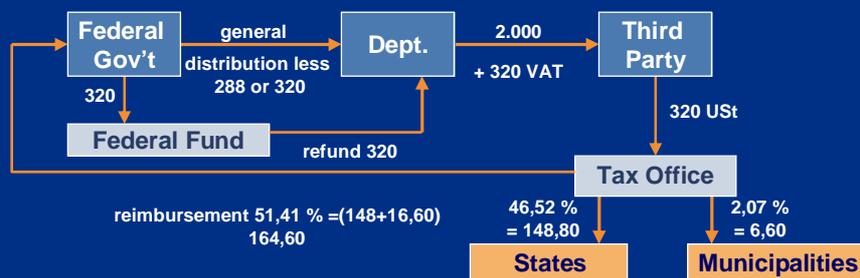
Conclusion: The department is entitled to the same amount of reimbursement; only the means are distributed by the federal government and the federal fund.



2

Federal Fund – Increased Outsourcing after Introduction of the Fund (3)

Assumption: An additional service amounting to €200 plus €32 (VAT) is purchased from a third party; i.e., an additional amount of €32 has to be contributed to the fund.



Conclusion: Of the additional VAT in the amount of €32, €16,60 are reimbursed to the federal government. Decision whether the federal government has to contribute additional €32 to the fund, the €32 are exclusively financed by the means the department is entitled to or whether the federal government contributes the €16,60 gained to the fund and the department has to finance the difference of €15,40 by its own means. ³



Federal Fund – Decision: Conventional Purchase or PPP

Both with the (closed) fund and without any refund system, the department has to pay €2.088 (1.800 + 288 VAT). €148 are reimbursed to the federal government under the Financial Compensation Act.

Total costs (incl. VAT) : €1.940

If the public authorities can perform the same service for €1.940 or less, it is not worthwhile to outsource that service. If the performance of the service by the authorities was more expensive, outsourcing would be more advantageous.

The critical price (z) is calculated on the basis of the net price (a) charged by the third party (in this case: €1.800) as follows:

$$a + (a \times 16\%) - (a \times 16\% \times 51,41\%) = z$$

$$1,077744 \times a = z$$

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