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By PwC Deutschland | 22. Juni 2011

Bank entitled to cost reimbursement for providing information

The Supreme Tax Court has granted a bank the right to claim a refund of its costs in answering a tax office request for copies of a customer’s bank statements.

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A tax office requested a bank to provide copies of a customer's bank statements in a letter headed "information request", explaining that the information request was necessary because attempts to obtain clarity from the customer had failed, and warning the bank of its duty to fulfil the information request to the best of its knowledge and belief. The bank complied with the request and charged the tax office with its costs of doing so – an hour of a clerk's time and the costs of the photocopies. The tax office refused to pay the charge, saying it had only asked for copies of documents which the bank was obliged to furnish on request free of charge.

The Supreme Tax Court has now held that the bank was entitled to reimbursement of its costs. A free-of-charge provision of documents implied a precise description of the documents requested and limitation of the bank's involvement to the "purely mechanical" activities of locating them in the filing system and rendering them legible. Anything going beyond the "purely mechanical" turned the request for documents into a mixed request for documents and information. The costs of answering a mixed request, though, were reimbursable as cost of providing information. The court emphasised that providing a document might well be the easiest and most reliable way of providing information in the circumstances. A request for a document for this reason, however, was a request for information.

Supreme Tax Court judgment I R 75/10 of March 30, 2011 published on June 22

Schlagwörter

banks, documents, information