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By PwC Deutschland | 15. November 2011

# Court of Auditors can insist on auditing a nation’s VAT systems

**The ECJ has outlawed a German refusal to cooperate with the European Court of Auditors by claiming that their audit would have had no valid basis in law.**

https://blogs.pwc.de/de/german-tax-and-legal-news/article/229202/

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The European Court of Auditors notified the Central Tax Office (responsible for intra-state VAT liaison) of its intention to audit on site the office's procedures in theory and practice in respect to international co-operation on VAT matters, particularly the office's reliance on, and response times to, requests under the VIES (Value-added tax Information Exchange System) arrangements. The Central Tax Office prevaricated – mostly by simply not replying to letters from the Court of Auditors, or from Commission. The finance ministry then stepped in with a blunt refusal to allow the Court of Auditors to act in the desired manner for want of a valid legal basis.

The ECJ has now held that the refusal to cooperate cannot be accepted. Part of the VAT collected by each member state falls to the ECU; thus a member state's administration of its system has a direct impact on EU resources. The Court of Auditors is therefore entitled to audit that administration on or off site as an audit of the EU's own resources, notwithstanding the relatively small percentage of a nation's VAT collections that actually falls to the EU. The ECJ added that information exchanges between states could benefit either or both member states. Other states therefore had an interest in correct monitoring of the German system. The planned audit was not solely a matter between Germany and the Commission.

The ECJ case reference is C539/09 *Commission v. Germany*, judgment of November 15, 2011.

**Schlagwörter**

Court of Auditors, VIES