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June 30 deadline for VAT refund claims upheld

The ECJ has held the June 30 deadline for foreign business to file VAT refund claims to be mandatory. Claims filed later cannot be accepted.

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A Dutch company claimed refund of its Italian VAT in July of the following year. The Italian authorities refused because the June 30 deadline of Italian law and the Eighth Directive had been missed. The company responded with a submission that the Eighth Directive was indicative, rather than mandatory, and that its refund claim should at least be reviewed for justification in substance.

The ECJ has now held that the Eighth Directive (now the VAT Directive) June 30 deadline for filing VAT refund claims by foreign businesses is exclusive. If it is not met, the right to file is lost. The court accepted that the binding nature of the deadline was not clear from the Italian or English texts of the directive, but pointed out that the Dutch, German and French texts were absolutely unambiguous. It then held that EU legislation must be interpreted in like manner throughout the EU regardless of differences in wording between the various languages. In this case, the intent to fix a deadline was clear, both in the interests of legal certainty, and from the harmonisational point of view of establishing a common time limit for all EU business operators.

The ECJ case reference is C-294/11 *Elsacom*, judgment of June 21, 2012.

Schlagwörter

VAT refund, foreign business