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Airline snacks subject to VAT

The Supreme Tax Court has held that sales of snacks, sweets and drinks on planes flying between two airports in the EU are subject to VAT as deliveries in the state of departure.

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An airline supplied its passengers on internal flights within the EU with snacks and drinks free of charge. Further snacks, sweets and drinks were available, but had to be paid for separately. The airline argued that both types of supply were ancillary to the flight as the main supply and the sale should therefore enjoy the same exemption. The airline also argued that supplies should be exempt by analogy under the provision exempting meals and drinks to passengers on ships sailing to or from a foreign port. The tax office accepted that the free of charge items were ancillary to the main supply, but argued that the additional sales on board were subject to VAT.

The Supreme Tax Court has now agreed with the tax office. The additional sales on board were not essential for the enjoyment of the flight, and were thus not ancillary thereto. Rather, they fell under a specific provision calling for their taxation. This provision followed the VAT Directive. The court, however, explicitly reserved judgment on airline meals – paid or not – on longer flights. It also refused the analogy to supplies on board ships. That exemption in the VAT Act had no basis in the VAT Directive and any extension would merely be to extend a community law infringement.

Supreme Tax Court judgment V R 14/13 of February 27, 2014 published on June 4

Schlagwörter

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