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By PwC Deutschland | 12. November 2014

Smoke extractor not part of building

The Supreme Tax Court has held that a smoke extraction assembly is an installation in a building, rather than part of a building, and thus subject to mainstream VAT.

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An engineering firm built smoke extractors for blast furnaces in order to improve the working environment in the factory. The extractors were mounted in the building from which they were effectively inseparable, as they could not be easily dismantled. The tax office saw them as part of the building and their installation as subject to reverse charge VAT. The supplier saw them as installations subject to regular, mainstream VAT payable by the supplier, but chargeable to the customer.

The Supreme Tax Court has now held that a building is something permanently affixed to the ground. An addition to a building changes or extends the nature of the building. An installation, on the other hand fulfils a set purpose separately from the purpose of the building. Under this definition, the smoke extractors were installations, rather than parts of the building. Their supply was subject to mainstream VAT, rather than to the reverse charge for building work.

Supreme Tax Court judgment V R 7/14 of August 28, 2014 published on November 12

Schlagwörter

building, installation, reverse charge