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Internet trade in pharmaceuticals: no deduction for payments to health fund customers

The Supreme Tax Court has held that an internet pharmacy cannot deduct compensation payments to health fund customers for the loss of consultation rights from the taxable turnover with private patients.

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A Dutch internet pharmacy accepted German orders from private patients as well as from members of the health funds within the social security system. As a pharmacy it was required by German law to give medicinal advice in person to all its customers. As an internet supplier from outside the country, it was unable to do this and compensated its customers with a cash payment. In its VAT return, it treated these payments as a reduction of taxable turnover. It saw its deliveries to private patients as taxable turnover as intra-community supplies to non-business customers. Its sales to health fund patients were tax-free as sales to the health funds.

The supreme Tax Court has now confirmed the lower court in its decision not to allow the pharmacy to deduct its payments to health fund customers (patients) from its taxable turnover to private patients. There was no direct connection between the tax-exempt supplies to health funds and the taxable sales of goods to private patients. Even if one followed the logic of the argument that the sales to health fund patients were effectively sales to those people, with the health fund merely acting as a payment intermediary, the conclusion would be unfavourable for the pharmacy as its entire sales would then be subject to VAT.

Supreme Tax Court resolution V B 174/14 of February 24, 2015 published on April 1

Schlagwörter

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