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Building installation continues to be VAT-able as building

The finance ministry has directed tax offices not to follow a Supreme Tax Court judgment restricting a reverse chargeable building installation to items of major significance for the construction, continued existence, maintenance or use of the building.

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VAT on building work for other businesses or public bodies is collected by reverse charge. Building work includes not only building activity, but also work on building installations. Traditionally, a building installation has been seen as equipment mounted in the building and affixed in such a way that it cannot be removed without altering or destroying the building. A lift is a typical example. However, in August 2014, the Supreme Tax Court narrowed the definition of a building installation to an item of major significance for the construction, continued existence, maintenance or use of the building. This definition follows the Valuation Act (valuation of assets for gift or inheritance tax), rather than the EU regulation to the VAT Directive.

The finance ministry has now issued a decree directing tax offices not to follow the Supreme Tax Court ruling other than in the case actually decided. A building installation is defined in the EU VAT Regulation as an item of equipment that cannot be removed without destroying or altering the building in which it is installed. The German VAT rules must follow this definition. The ministry also points out that a supplier cannot follow the Supreme Tax Court's definition without knowing his customer's intentions regarding the use or purpose of the item at issue.

Schlagwörter

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