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VAT-free intra-community supply must be supported by required documentation

The Supreme Tax Court has held that the required documentation in support of a tax-free intra-community supply cannot be substituted by other evidence.

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The VAT Implementation Ordinance details the precise form of documentation that a supplier of goods to a business in another EU member state must maintain for the supplies to be treated as VAT-free. In particular the documents must show the exact destination of the shipment and include appropriate receipts from the carrier. A supplier of goods to an Italian customer failed to provide the tax auditors with adequate documentation of his deliveries – the documents he did supply were variously incomplete, confusing, conflicting and inappropriate – but did offer them written confirmation from the customer that the goods had been subject to acquisition tax in Italy. The tax auditors ignored this offer and subjected the transactions in question to VAT as domestic deliveries.

The Supreme Tax Court has held for the tax office. The documentation furnished (basically incomplete bills of lading and transport manifests) suggested in at least some cases that the deliveries had actually been made to France or even within Germany. The confirmations offered had been signed by people unconnected with the actual transports. Any doubts as to the authenticity of the VAT-free intra-community supplies must be resolved by the taxpayer in the prescribed form. Failure to adhere to the form went to his disadvantage, particularly where the substitute evidence offered was, itself, dubious.

Supreme Tax Court judgment V R 14/14 of March 19, 2015 published on August 19

Schlagwörter

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