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Foreign businesses may not recover VAT on exports or intra-community supplies

The finance ministry has issued a decree forbidding foreign businesses from reclaiming the VAT invoiced to them on exports or intra-community supplies from Germany.

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In principle exports and intra-community supplies of goods are free of VAT (zero-rated). However, exemption is dependent upon the supplier's being able to demonstrate the delivery with documentation in the prescribed form. If the documentation is inadequate, the transaction must be subject to VAT. As an exception, though, the transaction remains VAT-free despite documentation shortcomings if there is other evidence showing the export or intra-community supply to be beyond doubt. Any VAT charged on such a delivery is a charge in error. The supplier is liable for the amount, but the invoice recipient cannot deduct input tax.

The finance ministry has now issued a decree emphasising that the same principle applies to foreign businesses without German taxable turnover recovering their VAT outlays through refund claims. A claimant will not receive a refund for VAT invoiced on an export or intra-community supply clearly to be seen as such at the time. The decree explicitly separates the VAT position of the recipient of the goods from that of the supplier; thus it must be assumed that any VAT paid on goods bought from a German supplier is unlikely to be refunded unless the claimant can show that delivery was in Germany.

Schlagwörter

export, foreign business, intra-community supply, refund claim