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By PwC Deutschland | 24. November 2017

Input VAT Refund: transmission of scanned invoice copies

Under the German VAT Implementation Regulations (Regulation 61 (2) 3rd Sentence – in the version valid until 29 December 2014), the condition that a “copy” of an invoice is to be attached to the input VAT refund application in electronic form, is met when the document which has been electronically transmitted is a faithful replication of the invoice.

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The appellant, a resident of Poland, submitted with his electronic application for an input VAT refund an electronic copy of an invoice which was stamped with the word “Copy”. The scanned original of this invoice was sent to the Federal Tax Authorities (FTA) with a later application for a different input VAT refund period. The FTA refused the refund application because, within the application deadline period, the invoice had only been submitted as a scanned copy of the original but not as a scanned original. A input VAT refund solely on the basis of a scanned copy of an existing (i.e. not lost) original invoice was not permissible. The Supreme Tax Court rejected this proposition and accepted the appellant’s arguments with reference to the most recent case law.

The requirement in Regulation 61 (2) 3rd Sentence VAT Implementation Regulations (old version) “to attach electronically invoices and import documents in copy ” is also met with, where the document transmitted is not a scanned original but a scanned copy of the original , a scanned copy of a duplicate invoice or a scanned copy of a second copy of the invoice. In its judgement of 17 May 2017 (V R 54/16) the Court stated that “A copy of an invoice copy is a copy within the meaning of Regulation 61 (2) 3rd Sentence VAT Implementation Regulations (old version)”

Note

Regulation 61 (2) 3rd Sentence VAT Implementation Regulations (old version) directs that “invoices and import documents in copy are to be electronically attached” to the refund application. This rule corresponded to the wording of Article 10 of Directive 2008/9/EC (laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State), which wording is still prevailing.

With effect from 30 December 2014 Regulation 61 (2) 3rd Sentence VAT Implementation Regulations was amended to the extent that invoices were no longer to be transmitted “in copy” but rather “as scanned originals”. According to the tax authorities this amendment serves only as a clarification of Article 10.

Source

Supreme Tax Court decision of 30 August 2017 (XI R 24/16), published on 22 November 2017

Schlagwörter

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