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Catering costs on film set not fully deductible as business expenses

Only 70 per cent of the costs incurred by a film production company for meals and drinks distributed free of charge to the persons employed at the film location for the production of the recordings can be deducted as business expenses, provided that the meals and drinks are also distributed to those persons who are not employees of the company itself, but who, for example, participate in the production of the set as employees of the participating television stations.

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According to Section 5 (5) No. 2 of the German Income Tax Act (ITA), only 70 per cent of expenses for the catering of persons *for business purposes* are tax-deductible. This was the subject of a proceeding before the Lower Tax Court of Cologne.

During the recording on the set, the applicant, a production company, offered the persons working there meals and beverages free of charge via a catering company. In addition to their own employees, the employees of the respective television station, the contractors of the plaintiff and their employees also benefited. The applicant treated the catering costs in their entirety as business expenses. The tax office took the view that the catering costs incurred by the applicant for persons not employed by it to fall under the reduction rule for business entertainment expenses and are therefore deductible only at 70 per cent. The Lower Tax Court backed the tax office and rejected the complaint.

A business event is obvious if the persons being hosted are not employees of the taxpayer. As the tax office had only reduced the expenses for the meals of the persons not employed by the plaintiff, the requirements of § 4 para. 5 sentence 1 no. 2 sentence 1 ITA were fulfilled. The tax court could not agree with the plaintiff's argumentation with regard to the existence of a predominantly own operational business interest, which overrides the business reason. The judges did not see in the ITA any indication to conclude that a predominantly self-owned interest generally overlaps an otherwise existing "business reason".

Source

Lower Tax Court of Cologne, decision of 6 September 2018 (13 K 939/13); appeal to the Supreme Tax Court was not granted.

Schlagwörter

business expense, catering costs, non-deductible expenses