

By PwC Deutschland | 14. Oktober 2026

General Court: Protection of good faith in case of margin taxation

In today's judgment, the General Court of the EU held that Union law precludes the German practice whereby the taxpayer's good faith in fulfilling the conditions for the margin scheme is not taken into account already during the tax assessment procedure but rather considered later in separate proceedings for equitable relief.

The case of dispute (main proceedings)...

The plaintiff (a GmbH) is involved in the trading of watches. In its VAT returns, the GmbH applied the so-called margin scheme (Section 25a of the German VAT Act) on certain sales. Under this simplified rule, not the entire sales price of the watch is subject to VAT but only the difference between the sales price and the purchase price.

...led to the dispute before the tax courts...

The tax office later found out that some of the information provided on the suppliers' invoices was inaccurate. The plaintiff pointed out that it had acted in good faith and was entitled to rely on the information provided by its suppliers. The tax office nonetheless set the VAT based on the general procedure at standard rates which was later confirmed by the tax court of first instance: The tax court did not consider it necessary to examine whether the plaintiff had acted in good faith because it was only permitted to invoke the issue of good faith in a separate procedure for equitable relief (Section 227 General Tax Code) and not at an earlier procedural stage, i. e. when contesting the tax assessment notice.

...which raised doubts on part of the Supreme Tax Court...

In its referral the Supreme Tax Court pointed out that it appears doubtful under EU law if Germany is permitted to oblige taxpayers to take further proceedings (for equitable relief) to protect their good faith. Taxpayers cannot be expected to undergo further proceedings because that would cause them disproportionate difficulties in terms of duration, complexity, and associated costs. The Supreme Tax Court is especially critical of the significant duration of the proceedings and the double cost risk that a taxpayer must take if he first brings legal action against the tax assessment and, shortly thereafter, legal action against a negative decision in his quest for equitable relief.

...and brought the General Court into play

The General Court, to which the case was referred, issued its judgment today and found that the relevant EU regulation may in fact conflict with German practice.

Article 314 of the VAT Directive, taken in light of the principle of

effectiveness, precludes a national practice under which the reseller's good faith is not taken into account already during the tax assessment procedure, but instead is only examined later in the course of a separate proceeding for equitable relief and decided by a separate administrative act.

In summary, the General Court considers that the German practice in question significantly impairs the taxpayer's right to apply the margin taxation.

Regarding the increased costs: Because the tax assessment proceeding is independent of the equity proceeding, the courts generally dismiss the claims filed in the former proceeding—even though the taxpayer could have asserted the right to margin taxation if his good faith had been examined and proven. The taxpayer may therefore ultimately be required to bear the costs associated with this tax assessment procedure, which, according to the referring Supreme Tax Court, can sometimes be substantial. The Supreme Tax Court must now examine whether these procedural requirements indeed impose disproportionate costs on the taxpayer and may have the effect of deterring the taxpayer from pursuing legal action, given the costs that a lawsuit would entail in relation to the amount of the disputed debt.

Regarding the duration of the proceedings: According to the General Court, the proceedings could be prolonged for several years which could result in a significant delay in the granting of temporary relief with respect to the taxpayer's exercise of the right to apply the margin taxation method to which he is entitled under the VAT Directive.

Source: General Court of the EU, judgment of 14 October 2026 T?569/25 X-GmbH. (The official English version of the judgment is not yet available)

Schlagwörter

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