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By PwC Deutschland | 09 January 2011

VAT on advance payment can only be reduced on actual refund

The Supreme Tax Court has held that the VAT on an advance payment can only be reduced when the payment is returned.

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The receiver of an insolvent building contractor notified customers that their contracts could not be fulfilled. Accordingly, their advance payments were returnable, but as a debt of the estate. The receiver then requested the tax office to accepted a reduction in taxable turnover in the amount of the returnable customer advances and to refund the VAT. The tax office accepted the turnover reduction, but refused the refund on the grounds that it should be offset against other tax claims on the estate.

The Supreme Tax Court has now allowed the refusal of the tax office, though for a different reason. The mere refusal to complete customer contracts did not destroy the nature of the customer advance payments. These were now returnable, but the VAT could not be adjusted until their actual return. Advance payments were taxed on a cash basis and this basis supplanted the more usable accrual basis of taxing services as rendered. This remained relevant to the VAT adjustments on return of the payments. (AM)

Supreme Tax Court judgment 34/09 of September 2, 2010 published on December 22

Keywords

Advance payment, VAT adjustment, actual refund, turnover reduction