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By PwC Deutschland | 01 September 2011

VAT-free samples

The finance ministry has amended its definition of a VAT-free sample to reflect the ECJ judgment C-581/08 EMI of September 30, 2010.

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In September 2010, the ECJ held that the definition of a VAT-free sample should be based on its purpose, rather than on its nature. Thus, an item given as a sample does not necessarily have to be distinct from corresponding items on display in retail outlets for sale to consumers. The finance ministry has just amended the relevant passages in its VAT Implementation Decree to follow the new definition. A sample is now a test item given for the sole purpose of enabling the recipient to assess the nature and quality of a product. It can be identical to a commercially available product where necessary for customer assessment, provided it is given in the interests of sales promotion. The object of a sample is to encourage the recipient (or others) to buy, not to save them from making a purchase.

Keywords

VAT-free, sample