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By PwC Deutschland | 04 September 2012

# Factoring is not a loan

**The Supreme Tax Court has held that charges for factoring are fully subject to standard rate VAT as a service, even if an interest element is shown separately on the invoice.**

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A factoring house purchased invoices from doctors at their face value less its fees. These were established in the contract as a factoring fee, a service charge and an interest charge. The latter was set at 1% of the invoice face value, calculated on an annual interest rate of 8% applied to an average patient payment delay of 45 days. The three fee elements were openly shown on the invoices and the factor claimed that at least the interest charge should be free of VAT as a charge for granting a loan.

The Supreme Tax Court has now held that the factoring house performed a single, fully taxable service. Essentially, it assumed the doctors' bad debt risks and released them from the burden of debt collection. This was a business activity chargeable to VAT at the standard rate. That the doctors received payment sooner than had they waited for the patients to remit, was a necessary consequence of the factoring arrangement as agreed and did not warrant separate treatment of the interest item, even if shown separately on the invoice and precisely identifiable from the contract. A loan had not been agreed and the apparent interest charge did not change the nature of the arrangement to that of a credit.

Supreme Tax Court Judgment XI R 28/10 of May 15, 2012 published on August 22

**Keywords**

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