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By PwC Deutschland | 11 February 2014

Input tax from fraudulent supplier

The finance ministry has issued a decree on supplies from a fraudulent supplier to the effect that the input tax is deductible if the recipient did not know of the fraud and otherwise acted in good faith with due care.

https://blogs.pwc.de/en/german-tax-and-legal-news/article/229464/

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In principle, the input tax charged by a supplier is deductible if the supply was for the customer's business. However, the deduction will be rigorously scrutinised if the sale was made with intent to defraud. Under a new decree of the finance ministry, the purchasing business must show that it did not and could not have known of the fraud when the goods were delivered. This decree is in reaction to a court case allowing the deduction for a genuinely innocent purchaser. The particular fraud at issue involved the sale of the same goods to different buyers, but with delivery only to one. The due care to be expected of a purchaser in such a case requires at least that the purchaser document his efforts to establish that the supplier was a VAT-registered business and that he record the serial or other identifying numbers of equipment items purchased.

Keywords

due care, fraudulent supplier, good faith, input tax