

By PwC Deutschland | 19 March 2014

Tour operator as show organiser if he purchases entire theatre capacity

The Supreme Tax Court has held theatre ticket sales of a tour operator to be VAT-free if he takes over the entire theatre for a particular performance.

A package tour operator included a visit to a show as a tour highlight. With this in view, he agreed with the theatre to take over the entire house for an evening for a fixed sum. He then sold or distributed the tickets on his own account, though primarily for or to his own tour members. The Supreme Tax Court has now held that the tour operator sold his tickets as show organiser, that is, VAT-free. He controlled the entire sale, the tickets bore his name alongside that of the theatre and he had assumed the full economic risk of the evening.

The court also held that the hotel meals included in the package were ancillary to the accommodation charges. They were therefore taxable in the country of the hotel. The meals were provided so that the travellers could enjoy the accommodation to its fullest extent without being forced to go out and search for a nearby restaurant. In this position, the court departed from the VAT Implementation Decree of the finance ministry which sees the two services – even in bed and breakfast packages – as separate. However, the court reserved its judgment on the main point of this passage in the decree, that the cost of the breakfast and other meals provided be taxed at the full rate for restaurant services, saying that the ECJ had already held that member states were entitled to restrict the application of a reduced rate option to specific types of service as long as they did so without distorting competition.

Supreme Tax Court judgment V R 33/10 of November 21, 2013 published on March 19, 2014

Keywords

Tour operators, show organiser, theatres