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Tour operators‘ margin taxation also for business customers

The Supreme Tax Court has followed an ECJ judgment and held that a bus company organising educational trips for schools, and other groups may charge VAT under the margin scheme regardless of the business status of the customer.

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The German VAT Act prescribes margin taxation for tour operators supplying the needs of end customers. However, supplies to other businesses are taxed under the normal rules. In September 2013, the ECJ held in a case brought by the European Commission against Spain that this distinction by customer had no basis in the VAT Directive and should therefore be disregarded. The Supreme Tax Court has now followed this judgment in a case of its own brought by a bus company organising educational tours for schools, clubs and other groups. The tax office had previously insisted on full taxation on amounts billed to business customers. However, the Supreme Tax Court has now held that this position, though, founded in German law, contradicts a binding ECJ interpretation of community law. A German taxpayer is free to follow community law if this leads in the circumstances to a more favourable result.

Supreme Tax Court judgment V R 11/11 of November 21, 2013 published on April 2, 2014 and ECJ judgment C-189/11 *Commission v. Spain* of September 26, 2013

Keywords

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