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By PwC Deutschland | 22 May 2014

VAT returns or refund claims of foreign businesses

The finance ministry has decreed that a Supreme Tax Court case requiring a foreign business to file a full VAT return of all German inputs and outputs where its only taxable output is a VAT invoice issued in error should only be followed by foreign businesses whose refund claims have been rejected in error.

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In August 2013, the Supreme Tax Court held that a foreign business was entitled and required to file a full German VAT return of all its German taxable turnover and all its deductible input tax items, even if its only taxable output was a VAT amount shown on the invoice in error. The immediate conclusion was that foreign businesses in this position (typically arising from a VAT invoice for a service that should have been reverse charged) were not entitled to file (simplified) refund claims but were also not subject to the additional limitations of that system (for non-EU applicants submission by June 30 with no possibility of deadline extension, automatic disallowance of certain items of expense, rejection of claims from businesses from countries not granting reciprocal treatment to Germany).

The finance ministry has now moved to restore the previous legal situation with a decree limiting the effects of the judgment to those foreign businesses in exactly similar situations to that of the case decided. This means

- the applicant must have filed a valid refund claim on time
- that claim must have been rejected in error, and
- re-submission is no longer possible because the June 30 deadline has now been passed.

Keywords

VAT return, foreign business, input tax, refund claim