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By PwC Deutschland | 12 June 2014

Travel agent’s discount does not reduce his taxable commission receipts

The Supreme Tax Court has followed an ECJ ruling and held that a travel agent granting customers a discount at his own expense cannot deduct the cost from his taxable turnover (his agent’s commission).

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A travel agent acted for tour operators for a commission on each tour sold. These commissions were his VAT outputs (taxable turnover). As an inducement to customers he offered them a discount off the price to be paid for their purchases. These discounts were at his own expense and were not rechargeable to the tour operators. He claimed that these discounts should reduce his taxable turnover following the then case law of the Supreme Tax Court. The tax office accepted this claim only insofar as the tours sold were themselves taxable – travel services outside the EU being exempt. The Supreme Tax Court referred the question to the ECJ.

The ECJ held that the discount granted by the agent did not reduce that agent's own turnover, regardless of the VAT status of the underlying transaction. The agent's own turnover was his commission charged to the tour operators. The discounts here at issue did not reduce that charge and had no effect on the tour operators' own costs. The tour operators' own income was also not affected as the agent accounted to them for the full catalogue price of the trip. The discount given was the agent's own expense and had no effect on his taxable turnover. The Supreme Tax Court has now followed this judgment and, in doing so, rendered its own previous case law to the contrary obsolete.

Supreme Tax Court judgment V R 18/11 of February 11, 2014, published on June 11, following the ECJ *Ibero Tours* judgment of January 16 (C-300/12)

Keywords

Tour operators, travel agent