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VAT-free sales with interrupted delivery

The finance ministry has amended its VAT Implementation Decree to allow interruption of the delivery flow for technical transport reasons only, if the intra-community supply or export sale is to remain VAT-free.

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VAT-free intra-community or export sales of goods basically presuppose uninterrupted delivery from the seller to the buyer, by, or at the order of, one of the two parties. However, it can happen that the delivery flow is interrupted, such as where the seller carries the goods to the docks where they are loaded onto a ship for carriage to a port in the buyer's home country. The buyer then takes delivery on arrival before taking the goods to their final destination on his own premises. Effectively, the carriage is shared between buyer and seller; thus it is not a single journey. However, the finance ministry has now decreed that a "broken", or interrupted, journey in such circumstances may still be treated as a single transport – with VAT exemption for the transaction as an intra-community supply or export sale – if the final destination is known at the start of the first movement and the legs of the journey are continuous.

By contrast, the ministry takes the view that an interrupted delivery breaks a triangular transaction so that each link in the chain becomes a separate sale with its own VAT consequence. However, it makes an exception in respect of deliveries from other member states through Germany to third countries that are treated as triangular transactions under the law or the state of departure. That law will be followed in Germany if a Germany tax liability would be the consequence of not doing so.

Keywords

export sale, interrupted delivery, intra-community supply