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By PwC Deutschland | 13 January 2016

Interest on overpayments in breach of community law to run from date of payment

The Supreme Tax Court has held that the interest due to a taxpayer on an overpayment levied in breach of community law runs from the date of the payment, rather than from the date of the suit.

https://blogs.pwc.de/en/german-tax-and-legal-news/article/229678/

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Overpayments of taxes collected in breach of national law bear simple interest of 0.5% per month for the period between the start of legal proceedings against the tax office for refund and the actual receipt of the refunded amount. However, a company objected to the application of this provision to the interest on a refund of sugar duty originally levied on the basis of an EC regulation later declared invalid by the ECJ. Rather, it maintained that the interest period should run from the date of payment of the disputed amount as more truly reflecting the actual loss to the company from the confiscation of its financial resources. It based this argument on an ECJ case – C-565/11 *Irimie* judgment of April 18, 2013. The Supreme Tax Court has now followed this argument at least in respect of refunds of taxes and dues collected on the basis of an EU regulation later found to be invalid.

Supreme Tax Court judgment VII R 32/14 of September 22, 2015 published on January 13, 2016

Keywords

interest, interest period, overpayment