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By PwC Deutschland | 25 February 2016

Market price for VAT on staff sales

The finance ministry has added a discussion on customary market price as a measure for the VAT on staff and related party sales to its VAT Implementation Decree.

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Sales to the staff or owners (shareholders or related parties) of a business are subject to VAT on the higher of the amount charged or the cost to the business. The purpose of this comparison is to prevent attempts at evasion or avoidance of VAT. Accordingly, the courts have held that it should not be applied in cases where there is no danger of VAT irregularity. The government reacted in 2014 with a change to the relevant provision of the VAT Act. The VAT basis for staff/related party sales is now the higher of the price charged and the cost to the business and the latter may not exceed the customary market price. The finance ministry has now followed up with an amendment to its VAT Implementation Decree bringing the examples of VAT on staff sales up to date and discussing its concept of customary market price.

Essentially, the customary market price is the amount the customer would have to pay on the open market for the given item at the same level of trading. Special discounts or rebates to particular groups of customer are to be ignored as are concessions to staff or management. The rule also applies to company cars leased to employees, though not to their private use of cars assigned to them for business purposes.

Keywords

customary market price, staff sales