Downloaded from Blogs on 08.11.2026 20:57

By PwC Deutschland | 20 September 2016

Formal invoicing errors may be corrected retroactively

The ECJ held that the correction of formal invoicing errors is allowable with retroactive effect on the input tax deduction.

Downloaded from Blogs on 08.11.2026 20:57

The input tax deduction under the German VAT Act is conditional on possession of a supplier's invoice correctly drawn up. A deficient invoice can be corrected later, but the right to deduct the input tax can only be exercised after the correction. Thus, subsequent discovery, say on tax audit, of an invoicing error by the supplier can lead to deferral of the input tax deduction until the date of correction. This can trigger an interest charge for the intervening period.

The case brought before the ECJ by the Lower Tax Court of Lower Saxony concerned a trader (operating in the wholesale textile business) with defective suppliers' invoices (missing tax numbers). The ECJ ruled that the VAT Directive must be interpreted as requiring retroactive deduction where the error is merely formal and there is no suggestion of bad faith. The reasoning is based on the concept of VAT as a tax neutral system for traders. This requires an immediate right of deduction as soon as the VAT has been paid. Correction of a formal error later must not lead to an interest charge or other burden, since there has been no loss to the state. The court went on to add that the state should be entitled to enforce adherence to the formal requirements with penalties, but these must be proportionate. Charging interest up to the date of correction does not distinguish between innocent error and fraud and also ignores the fact that the error was – usually – made by the supplier and is therefore inherently out of proportion. Given that most cases of innocent error will not be discovered until audit, an acceptable time limit must allow for invoice correction for a reasonable period after the matter has come to the attention of the authorities. The local tax office, by the way, has stated from the outset that it accepts the corrected invoices as such and does not thus consider that the corrections were made belatedly.

The ECJ case reference is C- 518/14 *Senatex* judgment of September 15, 2016

Keywords

corrected invoice, invoicing error