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By PwC Deutschland | 14 March 2017

VAT situation for the public sector

The Federal Finance Ministry issued a decree dealing with the Value Added Tax situation for the public sector as revised in the course of the Tax Amendment Act 2015.

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In the course of the Tax Amendment Act 2015 the VAT situation for the public sector was restructured entirely in order to conform to local and EU jurisdiction and to the VAT System Directive on these and similar matters. In general, activities of those entities are not of a business nature and thus not VATable inasmuch as they are performed within the capacity as public authority. This would be different, however, if the non-taxation would significantly distort competition. If entities governed by public law, however, carry out (taxable) activities listed in Annex I of the Principal VAT Directive they will always be viewed as a business for purposes of VAT. The tax reform for public bodies was enacted beginning January 1, 2016. As a matter of practice, though, the new rules are implemented since January 1, 2017. A transitory rule until December 31, 2020 is granted with the option to be taxed under the auspices of the old law; application to that effect had to be submitted by December 31, 2016. The Federal Finance Ministry has also issued a decree dealing with specific questions relating to the application of the new VAT rules. Details of the transitory provision are explained in the decree, especially details of the withdrawal of the option to be taxed under previous (old) law and questions relating to the input VAT.

Keywords

public authority, public sector