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ECJ: Request for VAT refund valid even in absence of serial number

Following on a request for a preliminary ruling brought by the Supreme Tax Court, the European Court of Justice held that the application form for a VAT refund does not necessarily have to show a serial invoice number. It is sufficient to indicate another number which can be used to identify the invoice and thus the item or service in question.

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Background

Businesses (taxable persons) from other Member States may reclaim German VAT borne on their business expenses from the Central Tax Office (CTO) by filing a refund claim on the appropriate form (or electronically) with the CTO. Under German VAT law the refund claim must be complete and submitted within nine months of the following year in which the refund entitlement arose. In the case of dispute the CTO rejected the claim because in the application form submitted by the claimant, the numbers shown as the invoice number for each of the services or items concerned were not serial invoice numbers but other numbers which could be traced to the actual invoices. The Supreme Tax Court had doubts whether the refusal of the refund claim by the CTO is consistent with EU VAT law.

ECJ decision

Art. 226 No. 2 of the Directive indeed provides for "a serial number issued once to identify the invoice". However, according to the ECJ, the absence of such a serial invoice number in a VAT refund application cannot lead to the refusal of that application if this violates the principle of fiscal neutrality or the principle of proportionality. The basic principle of VAT neutrality requires that input tax deduction or VAT refund be granted if the substantive requirements are met, even if the taxable person has not complied with certain formal requirements. Also, the ECJ pointed out that the claim for a VAT refund, mirroring the right to deduct input tax, is a fundamental right of the common system of value added tax; it reflects the principle of neutrality as a key point underlying the whole EU VAT system and thus cannot generally be restricted.

Where an application for a refund of VAT does not contain a serial number of the invoice, but rather another number which allows the original invoice to be identified, the tax authority of the Member State must consider that application as being ‘submitted’ and thus proceed to review the application further. During its examination the tax office may then request additional information or documents, which shall be provided by the claimant within one month following the request.

Source:

The ECJ case reference is **C-346/19** *Bundeszentralamt für Steuern,* judgment of 17 December 2020.

Keywords

application for VAT refund, invoice number, serial number