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By PwC Deutschland | 15 July 2021

Zero financing does not reduce tax basis for VAT

The payment for a sale of goods is not reduced in case of a 0% financing which was arranged and borne by the seller and which is handled through a bank. The basis of assessment for VAT purposes (tax basis) is still the purchase price agreed with the buyer, even if the invoice states that the seller grants a discount in the amount of the interest.

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Background

The plaintiff sold goods in the retail trade and offered its customers so-called "zero (0%) financing". For this purpose, the plaintiff had concluded a general agreement (Master Agreement) with a bank. The customers concluded a loan agreement with a bank for the purchase price, in which the interest rate was stated as "effective 0 %", and paid the installments to the bank. The plaintiff, alternatively its parent company, paid the interest to the bank; which was referred to in the general agreement as "subsidy".

The tax office refused to reduce the basis for VAT (tax basis). The appeal before the Lower (regional) Tax Court was dismissed.

Decision

The Supreme Tax Court did not see any reason to deviate from the previous court judgement.

The consideration for VAT purposes (VAT basis) is the purchase price: The fact that the purchase price was paid by the bank to the plaintiff is of no significance. Thus, the purchase price cannot be reduced by the amount of subsidy (i. e. the interest payment by the plaintiff or parent company to the bank) as there were two independent legal contracts: the purchase contract and the loan agreement.

For the purpose of determining the VAT basis for the supply, it is also not relevant that the respective customer did not pay the agreed purchase price directly to the plaintiff, but through the bank.

Furthermore, the Supreme Tax Court pointed out that Article 73 of the EU VAT Directive does not require the consideration for the supply be paid directly by the recipient of the supply. The payment of the consideration can therefore also - as in the case in dispute - be made by a bank.

Source:

Supreme Tax Court decision of 24 February 2021 (case ref.: XI R 15/19), published on 8 July 2021.

Keywords

VAT basis, assessment basis, zero financing