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VAT: No taxable service in case of flat-rate fee charged in return for low-cost use of cafeteria

The Supreme Tax Court addressed the VAT treatment of an agreement between a temporary employment agency (the lender) and the client regarding the use of cafeterias by the temporary workers. The agreements - which were set forth in a single uniform contract - do not give rise to taxable services provided for consideration.

The plaintiff's business involved the placement of temporary workers. The key factor in the case of dispute was the contractual agreement which provided that the temporary staffing agency (the plaintiff) would be charged with a flat-rate fee by the client (A) for the use of the cafeterias (canteens) by temporary workers which the agency would then recharge to A. Accordingly, A was to bear the costs of the temporary workers' actual use of the cafeteria alone; the invoicing only served to allocate costs internally within a specific department of A.

The plaintiff was merely included as a third party in A's internal cost allocation. It is therefore irrelevant that the plaintiff entered into agreements with various operating departments of A and that the plaintiff's billing was handled by a different operating department than the one that billed the plaintiff.

However, since the plaintiff separately showed the VAT in its invoices for the preferential use of the canteen that was recharged, it is liable for the VAT amount stated pursuant to Section 13a (1) Number 4 in conjunction with Section 14c (2) second sentence, and Section 13(1) Number 3 of the VAT Act.

Source: Supreme Tax Court, judgment of 16 April 2026 (V R 1/25) published on 13 August 2026.

Keywords

employment agency, second charge