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No calculation of VAT based on fees received (cash method) if business assets comparison method is used

In a most recently published judgment, the Supreme Tax Court decided that freelance professionals who voluntarily keep accounts and draw up annual stock inventories cannot determine their VAT payable by using the so-called cash method (at the time remuneration is received) rather than on the basis of the agreed remuneration (as invoiced).

Methods to calculate output VAT

"Soll-Besteuerung" (accrual-based VAT is the standard legal method for calculating and paying VAT based on the remuneration agreed.

The “Ist-Besteuerung“(cash method or taxation based on collected revenues) is a special VAT method where the VAT is due upon payment.

The plaintiff, a partnership of attorneys, public accountants, and tax advisors, calculated its profits using the business assets comparison method (i. e., the difference in net business assets between the beginning and the end of the business year) since commencing business operations in 2006. From then on, its total revenue exceeded the applicable revenue threshold set forth in Section 20 (1) Sentence 1 Number 1 of the VAT Act. The plaintiff taxed its revenue using the cash method (based on the remuneration received) which the tax office rejected: Approval to calculate VAT on a cash basis could not be granted because the plaintiff maintained its accounting records voluntarily.

The Supreme Tax Court held in favor of the tax office: A self-employed (freelance) professional cannot calculate the output VAT based on payments received if he voluntarily determines his profit by using the business assets comparison method. He must adhere to the calculation based on the remuneration agreed in the invoice.

The decisive factor for the restriction to use the cash method for self-employed professionals who voluntarily maintain accounting records is to ensure tax neutrality. This principle requires that economic operators engaged in similar transactions are not treated differently with respect to the collection of VAT. Therefore, any measure taken by Member States concerning the collection of VAT must take this principle into account.

Hence, if accounting records are available, it is not - from a VAT point of view - appropriate to treat the revenue from the consulting services of a sole-proprietorship or a “law firm” differently from the revenue from the consulting services of a tax consulting GmbH.

Source: Supreme Tax Court judgment V R 16/24 of 16 April 2026 published on 27 August 2026.

Keywords

VAT basis, accounts