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German Tax and Legal News

Administrative guidance issued on VAT treatment of discounts granted by agents

The German Ministry of Finance issued a circular dated 27 February 2015 confirming the jurisdiction of the ECJ and the German Federal Tax Court (BFH) in the case "Ibero Tours" on the VAT treatment of discounts granted by agents.

Following to the CJEU decision of January 16, 2014, C-300/12 (Ibero Tours) and the subsequent decisions of the BFH of February 27, 2014 and July 3, 2014 on the VAT treatment of discounts granted by agents, the German Ministry of Finance (BMF) has now issued administrative guidance on February 27, 2015 implementing those decisions.

Within this guidance, the BMF summarizes that a discount granted by an agent acting outside the supply chain should not reduce the VAT due by the agent on the provision of its intermediary service. Correspondingly, the recipient of the discount and customer of the underlying supply is not obliged to reduce its input VAT recovery from the invoice raised by the supplier.

This regulation should not only affect travel agents but might also be relevant for any type of agent such as car dealers, purchasing associations, etc.

The BMF foresees an exception from the principles above for discounts which are not granted in connection with the intermediary services but are granted due to a pre-existing relationship with the customer. However, this exemption is rather imprecise and should only be applicable in rather few cases.

The guidance also includes a non-objection period i.e. until the publishing of the respective judgments of the BFH dated 27.02.2014 (V R 18/11) and 03.07.2014 (V R 3/12) in the German Federal Tax Gazette a reduction of VAT on the service provided by the agent will not be challenged.

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