Deloitte.

URL: http://www.deloitte-tax-news.de/german-tax-legal-news/bmf-issues-guidance-on-vat-treatment-of-security-held-in-the-construction-industry.html

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German Tax and Legal News

BMF issues guidance on VAT treatment of security held in the construction industry

The guidance limited application to situations where full payment is received significantly later than the date of the supply to security held within the construction industry

Germany's Federal Ministry of Finance (BMF) issued a circular on August 3, 2015 that provides guidance on the VAT treatment of amounts held as security.

The circular implements a 2013 decision of the Federal Fiscal Court (BFH) (see Deloitte Tax-News of February 2014), in which the BFH held that where a supplier is unable to fully collect the consideration owed to it within a two to five-year period because a contractually agreed amount is held back as security, that amount may be considered a bad debt at the time of the supply. The amount held as security will reduce the taxable base of the supply, provided the security could not be provided by other means, such as a bank guarantee. As a consequence, the supplier is liable for the remaining VAT only at the time the security amount is released.

The guidance implementing the BFH decision is very narrow because it applies only to amounts held as security in the construction industry instead of extending it to all cases where businesses are obliged to pre-finance VAT for a significant period of time.
