Deloitte.

URL: http://www.deloitte-tax-news.de/german-tax-legal-news/bmf-issues-new-guidance-on-conditions-for-refund-of-incorrectly-charged-vat.html

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German Tax and Legal News

BMF issues new guidance on conditions for refund of incorrectly charged VAT

BMF clarifies that refund of incorrectly charged VAT by the tax authorities requires the repayment of the amount to the recipient

On 7 October 2015, Germany's Federal Ministry of Finance (BMF) issued a circular clarifying that where a VAT invoice is corrected because VAT has been charged incorrectly, the supplier must refund the excess VAT to the customer in order to have the amended invoice be considered by the tax authorities.

The BMF relied on a 2008 decision of the High Finance Court (V R 56/06), in which the court held that where a supplier and a customer agree to a partial or full reimbursement of VAT charged on an invoice, the taxable base will be reduced in the period of the repayment by the amount of VAT refunded to the customer.

If the supplier is not obliged to refund the VAT overpaid to the customer following to an invoice correction (e.g. where the parties have agreed on a total invoice amount that includes VAT), the supplier may reduce its VAT liability without having to reimburse the customer.
