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German Tax and Legal News

CJEU rules on VAT treatment of payments for unused airline tickets

VAT is due on airline tickets even where the passenger does not use the ticket

The Court of Justice of the European Union (CJEU) issued a decision on 23 December 2015 in the joined cases Air France-KLM and Hop!-Brit Air SAS (C-250/14 and C-289/14), concluding that VAT is due on the sale of an airline transportation ticket in cases where the passenger does not use the ticket and is unable to obtain a refund. The CJEU held the supplier is liable for VAT on the sale of the ticket once payment is received; it is irrelevant whether the passenger actually uses the ticket since the consideration is paid for the right to benefit from the transport services.

According to the court, the sum retained by the airline companies is not intended to compensate for damages suffered following a passenger's no-show, but constitutes remuneration for a service, even where the passenger did not actually use the transport.

The CJEU decision supports a 2011 decision issued by the German Federal Tax Court (BFH) rejecting the nontaxable compensation argument in a decision issued on September 15, 2011 on no show fees for airline tickets.

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