

URL: <http://mobile.deloitte-tax-news.de/german-tax-legal-news/lower-finance-court-rules-on-vat-implications-of-installment-based-agreements.html>

 23.11.2016

German Tax and Legal News

Lower Finance Court rules on VAT implications of installment-based agreements

If due date is more than two years after the supply, the installment may be treated as a bad debt so that full VAT liability would arise only after payment is received

The Finance Court of Lower Saxony issued a decision on August 18, 2016 on the VAT implications of installment payments where payment is due more than two years after the actual supply is made.

In general, the tax point for German VAT purposes is the actual supply date. Any delays in payment should not affect the VAT liability of the supplier unless there is a default in payment within the meaning of the bad debt rules; this generally requires an unequivocal refusal to pay by the customer or where the customer is unable to pay.

However, the Federal Tax Court (BFH) held in 2013 that a contractually agreed security retention for a period of two to five years can be considered a bad debt at the time of the supply, thus allowing the taxable base of the supply to be reduced at that time.

The Finance Court of Lower Saxony now has ruled that a contractually agreed installment payment with a due date of more than two years after the supply will be considered as a bad debt at the time of the supply so that VAT on the installments would become due only when payment is received and not at the time of the supply.

The decision has been appealed to the BFH.

Suppliers that have agreed to long-term installments may wish to consider whether to apply the Lower Saxony court decision to keep VAT assessments open until the BFH issues its final decision in the case and potentially benefit from cash-flow and interest advantages.

Diese Mandanteninformation enthält ausschließlich allgemeine Informationen, die nicht geeignet sind, den besonderen Umständen eines Einzelfalles gerecht zu werden. Sie hat nicht den Sinn, Grundlage für wirtschaftliche oder sonstige Entscheidungen jedweder Art zu sein. Sie stellt keine Beratung, Auskunft oder ein rechtsverbindliches Angebot dar und ist auch nicht geeignet, eine persönliche Beratung zu ersetzen. Sollte jemand Entscheidungen jedweder Art auf Inhalte dieser Mandanteninformation oder Teile davon stützen, handelt dieser ausschließlich auf eigenes Risiko. Deloitte GmbH übernimmt keinerlei Garantie oder Gewährleistung noch haftet sie in irgendeiner anderen Weise für den Inhalt dieser Mandanteninformation. Aus diesem Grunde empfehlen wir stets, eine persönliche Beratung einzuholen.

This client information exclusively contains general information not suitable for addressing the particular circumstances of any individual case. Its purpose is not to be used as a basis for commercial decisions or decisions of any other kind. This client information does neither constitute any advice nor any legally binding information or offer and shall not be deemed suitable for substituting personal advice under any circumstances. Should you base decisions of any kind on the contents of this client information or extracts therefrom, you act solely at your own risk. Deloitte GmbH will not assume any guarantee nor warranty and will not be liable in any other form for the content of this client information. Therefore, we always recommend to obtain personal advice.