KPMG
cutting through complexity

MwSt.VAT Newsletter

September/October 2013

NEWS FROM THE CJEU

Splitting of input tax on turnover from branches in other Member States or third countries

CJEU, ruling of 12 September 2013 – case C-388/11 – Le Crédit Lyonnais

The ruling addresses the splitting of amounts of input tax on overheads economically connected not only with turnover giving entitlement of input tax deduction but also with those for which it is ruled out. For this purpose, Community law provides for turnover-based splitting (Art 17 (2) and (5), Art 19 of the Sixth EC Directive, now Articles 173 - 175 of the VAT Directive). The deductible portion (pro-rata rate) is calculated in general using a fraction with the taxable turnover as the numerator and the total turnover, both taxable and VAT exempt, as the denominator. The court was required to establish whether the turnover of the dependent branches abroad was to be taken into account in calculating the pro-rata rate for the head office.

The case
Le Crédit Lyonnais (LCL) is a bank with its principal establishment in France and branches in the Member States of the European Union and in third countries. In its French VAT returns, LCL included the interest on loans made by its principal establishment to its foreign branches in the numerator and the pro-rata amount intended for input tax deduction in the denominator, which resulted in a higher input tax deduction. However, the tax authorities rejected this procedure. LCL argued that, in this case, the revenues from the branches' turnover were to be regarded as its own and hence to be taken into account in calculating the pro-rata input tax deduction rate applicable to them. In support of this, LCL cited a CJEU ruling on 23 March 2006 (case C–210/04 – FCE Bank) on the basis of which the branches, by reason of their relationships with the principal establishment, constituted with the principal establishment a single taxable entity.

The ruling
The CJEU rejected LCL's view of the law. EU law, it said, was to be interpreted to mean that a company whose principal establishment is based in a Member State cannot use the turnover earned by its foreign branches to determine the pro-rata input tax deduction rate applicable to it. In the same way, a Member State was not permitted to make a rule for the calculation of the pro-rata rate for every area of a taxable company's activities under which it might include turnover from a foreign branch.

Please note:
In his Opinion, given on 28 February 2013, the Advocate General concluded that the Member States were not obliged to take account of the turnover of branches in other countries when calculating the pro-rata input tax deduction rate for a company with its registered office in their territory. The CJEU has gone one step further and outright denied them the right to do so. By the provisions in § 15 (4) German VAT Law (UStG), Germany has availed itself of the right provided for in EU law (cf. Art. 173 (2) c of the VAT Directive) to split input tax other than by following the fundamental pro-rata rate rule described above. Use of the turnover ratio is

Content

permitted under German law only if no other commercial method of apportionment is feasible. Where, however, turnover-based splitting is appropriate, the ruling may well have a direct impact on the position in German law. The wording of § 15 (4) UStG would probably permit foreign turnover, too, to be taken into consideration, so that the restrictive interpretation of the law would be open to question. The tax authorities appear to have already anticipated this question, at least where the banking sector is concerned, since, according to the German Ministry of Finance (BMF) guidance of 12 April 2005 on the "Neues Konzept für die Vorsteueraufteilung bei Kreditinstituten" ("New input tax splitting concept for banks"), German banks' locations abroad are treated as distinct organizational units in their own right for the purpose of input tax splitting.

In brief

CJEU, ruling of 26 September 2013 – case C-189/11 – Commission / Spain, and other rulings

By this and seven other rulings on 26 September 2013, the CJEU gave an opinion on the scope of applicability of the special VAT scheme for travel agents (Art. 306 ff. VAT Directive). The rulings were given in breach of treaty cases brought by the European Commission against the Member States Spain, Finland, France, Greece, Italy, Poland, Portugal and the Czech Republic (see CJEU press release). The Commission had taken the view that the special scheme applied only to the sale of travel services to travelers, and accused the Member States in question of having allowed the rule to be applied to the sale of travel services to any customer. The Commission's claim was unsuccessful. Given the differences in terminology in the various language versions of the Directive, applying the special scheme to all types of customers was more consistent with the scheme's intentions, in that it allowed travels agents to benefit from simplified rules irrespective of the type of customers to whom they provide their services, while also promoting the appropriate sharing out of tax revenue among the Member States. Only Spain had been in breach of its obligations under the VAT Directive in that it had, for example, allowed travel agents to determine the basis of assessment across the board for every taxation period. The ruling has direct implications for the legal position in Germany, not least in that, according to § 25 (1) sent. 1 UStG, the provisions applicable to travel services are not to apply where the travel services are for the recipient's company. But § 25 (3) sent. 3 UStG, which states that a trader providing travel services can base the calculation either on groups of services or all the services provided within a tax period rather than on each and every single service provided, is now also being re-examined.

CJEU, ruling of 26 September 2013 – case C-283/12 – Serebryannay vek EOOD

This case, referred to the Court from Bulgaria, concerned the services provided by a trader to the owner of an apartment, who had granted the former the right to use the property for a period of several years. For the period covered by the contract, the trader had been allowed to use it for business purposes without paying rent. The trader undertook, however, to carry out fitting-out and assembly work in the property in its own name and at its own expense, and the refitted apartment was to be returned to its owner at the end of the contract. According to the CJEU, the services carried out by the trader are to be regarded as for consideration, forming part of an exchange transaction. There is a direct connection with the consideration actually received, namely the right to use the apartment in question, for business purposes, for as long as the contract runs, and the fact that the owner benefits from the services in question only after the end of the contract does nothing to change this.

NEWS FROM THE BFH

Ruling on VAT group amended

BFH, ruling of 8 August 2013, V R 18/13

By this ruling, the German Federal Tax Court (BFH) has changed its position on organizational integration into VAT groups.

The case

A limited liability company (GmbH) performed taxable services in the form of the installation of heating, ventilation, sanitary and air-conditioning equipment, as well as dry construction work. It rented business premises from its sole shareholder, who was also its managing director. He paid the company's turnover tax in his capacity as its controlling company. When the GmbH later became insolvent, he, on its behalf, requested the opening of insolvency proceedings. The competent district court thereupon appointed a provisional insolvency administrator, also directing, in accordance with § 21 (2) no. 2, 2nd alt. of the Insolvency Ordinance (InsO), that disposals could from now on be made only with the provisional insolvency administrator's consent. During the preliminary insolvency proceedings, building projects were proceeded with and finishing work carried out. Five months after the GmbH ceased trading, the insolvency court commenced proceedings in respect of its assets. A dispute arose over when the VAT group had ceased to exist and against whom a claim for adjustment of input tax by reason of payments not made by the GmbH should be brought.

The ruling
The BFH came to the conclusion that the GmbH's organizational integration lapsed once the provisional administrator was appointed, and so the shareholder is not required to pay tax on the services performed by the company after that date. Whether the insolvency court granted the provisional administrator any further rights in addition to the few at his disposal, and if so, which is irrelevant in the eyes of the BFH. The BFH justifies this on the grounds that organizational integration presupposes that the parent or dominant enterprise actually exercises the right, implicit in financial integration, to intervene in the subsidiary's day-to-day business. This means that he must, by his manner of management, control the group subsidiary. The BFH has abandoned its former position that organizational integration – without the possibility of enforcement of will – can result also if the possibility of any decisions being taken in the subsidiary contrary to the will of the dominant enterprise is ruled out.

As the provisional insolvency administrator is not only authorized, but indeed, under insolvency law, obliged, to prevent payments from the limited liability company to its former parent, the latter loses the capacity to control the former and to pay the tax on the earnings from the operations of the former subsidiary as the person liable to tax and hence as the collector of tax on behalf of the State. The BFH also concurs with the finding of the German Federal Court of Justice (BGH), according to which the effect of the right to withhold consent under § 21 (2) no. 2, 2nd alt. InsO is that the provisional insolvency administrator can prevent effective legal transactions on the part of the debtor.

The entitlement to claim input tax adjustment under § 17 UStG on the grounds of uncollectability arises on the appointment of the provisional insolvency administrator with the right to withhold consent. If the VAT group ceases at the same time, input tax adjustments in respect of services by the subsidiary that have still not been paid for may be claimed from the former controlling company.

Please note:
According to the BFH, and as the CJEU would have explicitly ruled, the consequence of the "merger into a single taxpayer" as VAT group is that the controlling company, as the entity liable to tax, is required to act as a collector of taxes for all its subsidiaries and collect public funds on behalf of the State. This, according to the BFH, would require a relationship of superior and inferior between the controlling company and the group subsidiary through which the controlling company would also, by reason of their financial integration, be able, not least in law, to exercise control over the subsidiary's day-to-day business activities. A right of veto, which would do no more than make it possible to prevent decisions contrary to the controlling company's will, would not, it said, be sufficient. It remains to be seen to what extent the BMF will change its view (expressed in the guidance of 7 March 2013, for which see MwSt. VAT Newsletter April 2013) in line with the BFH's amended and more stringent position. In any case, the BFH's amended position means that a large number of integration models already adopted in practice, e.g. in joint powers of direction (cf. Section 2.8. (8) of the VAT Application Decree (UStAE)) are now being re-examined.

In brief

BFH, ruling of 21 February 2013, V R 10/12

The point at issue in this case was whether the long-term leasing of a plot of land as a compensatory green area, combined with the grant, for consideration, of a limited personal encumbrance, can be VAT exempt. According to the BFH, the consequence of an interpretation in line with the guidelines is that only the grant of such real rights to the use of property is VAT exempt under § 4 no. 12 c UStG, and that such rights are also covered by the term "leasing and letting" in EU law. The fundamental characteristic is that the contracting party is granted, for consideration and for a specified period, the right to take possession of a plot of land as if he were its owner, with the ability to deny that right to any other person. On that basis, the farmer, in this case, has not leased the plot of land; the contracting parties' concern was not with the municipality's taking possession of the plots of land in order to enable it, like an owner, to debar third parties from the use of them. Rather, what was crucial in the eyes of the municipality was that the plots of land be restored to a condition that would enable it to meet its commitments under the law on the protection of the natural environment. Another reason why the transaction cannot be regarded as a lease is that the farmer accorded the municipality a permanent right of use rather than doing so for a specified period, as would have been the case had this been explicitly specified or had there been a right of termination. The BFH also gives particular attention to the VAT exemption under § 4 no. 9 a UStG, under which revenues covered by the Real Estate Transfer Tax Act are VAT exempt, which the BFH denied in this case.

BFH, ruling of 11 April 2013, V R 28/12

In a ruling on 10 March 2011 (cases C-497/09, C-499/09, C-501/09 and C-502/09, Bog etc.), the CJEU stated that services provided by a party service, which may also consist only in the preparation and supply of food, are only not services (which are subject to the standard rate of VAT), if only standard meals, without additional service elements or if special circumstances demonstrate that the supply of food is the predominant component of the transaction. According to the BFH (ruling of 30 June 2011, V R 18/10) facilities for the consumption of food may be treated as a service element only if they are provided by the service provider as part of an integrated supply. This also applies to the provision of crockery and cutlery. Another distinction between an integrated supply and a plurality of independent supplies is that one and the same trader is involved. In the case at

issue, then, the fact that the butcher's wife, in providing cutlery and crockery, acted as a hostess and an independent enterprise, is fundamentally immaterial in determining whether the butcher himself, by his party service, provided supplies of goods or rendered services. An alternative interpretation would be possible only if the intention to avoid tax (§ 42 AO) were present. On the basis of the CJEU ruling of 22 December 2010 (case C-277/09 – RBS Deutschland), the Financial Court would have had to bear in mind, when considering the case, that, although the butcher and his wife were associated persons, they were not, as far as was known at the time, in any kind of close relationship with their customers. Tax avoidance might, however, have been established on the basis of the fact that the butcher bore the costs involved in his wife's provision of crockery and cutlery.

BFH, ruling of 4 July 2013, V R 8/10

The ruling considers two issues; the first is whether a foreign company buying a portfolio of non-performing loans in a single transaction from a German bank is providing a taxable and tax-liable service to the vendor bank for which, under § 13 b UStG, the bank, being the recipient of the service, is required to remit VAT to the tax office. The court had also been asked to clarify whether the vendor bank, in the interim period between the conclusion of the contract and the cut-off date, had been providing taxable services to the purchaser of the loans. In denying this in this case, the BFH followed the CJEU in its ruling of 27 October 2011 (case C-93/10 – GFKL Financial Services AG) and its own findings after that date (see MwSt.VAT Newsletter March 2012). It found that a trader who, at his own risk, buys non-performing loans at a price lower than their nominal value is not providing a service for consideration if the difference between the nominal value of the loans and their purchase price reflects their actual economic value at the time they were transferred. Indeed, the vendor of the loans provides a service that is VAT exempt under § 4 no. 8 c UStG to their buyer, but – contrariwise – the purchaser is not providing a factoring service to the vendor. The deduction necessitated by the tax authorities' requirements is not evidence that the parties intended to agree to the loans being bought at a price lower than their actual economic value. It follows that the bank is not debtor of VAT under § 13b UStG. The BFH left open the question as to whether the conditions for a taxable service for consideration on the part of the bank were met, insofar as interest and reimbursement of expenses for the period between the cut-off date and the conclusion of the contract had been agreed, since, even if they had been met, these constitute components of a service to be treated as integrated, which, being a sale of receivables, is VAT exempt under § 4 no. 8 c UStG.

NEWS FROM THE BMF

Changes to the documentary requirements for intra-Community supplies of goods from 1 October 2013

BMF, guidance of 16 September 2013 – IV D 3 – S 7141/13/10001

With its guidance dated 1 October 2013, the BMF stated its position on the changes to the documentary requirements from 1 October 2013 for zero-rated intra-Community supplies of goods (exemption with right to deduct input VAT). The amendments of the German VAT Operating Regulation (UStDV) were already presented in the March 2013 MwSt.VAT Newsletter. Attention is drawn below to a number of points raised in the BMF guidance.

Transitional arrangements until 31 December 2013
Intra-Community supplies up to 31 December 2013 will not be faulted if the accounting and documentary evidence accords with the legal situation applying until 31 December 2011. This expands the transitional administrative regulation contained in § 74a (3) UStDV for supplies prior to 1 October 2013. In addition, the businesses are to free to opt to apply the regulation applying from 1 October 2013 to supplies from 1 January 2012.

Basics of documentary requirements
In addition to the accounting evidence, the documentary evidence is at the heart of the documentary requirements for intra-Community supplies. It is not mandatory for the documentary evidence to be in the form of an entry certificate or the other documentary evidence provided for in the UStDV. The enterprise is free to use any suitable vouchers and evidence. If an invoice contains no, or no clear, reference to the zero-rating of the intra-Community supplies, then the documentary evidence will not be deemed to have been provided so far.

Entry certificates in all transportation and shipment cases
Entry certificate samples (§ 17a (2) no. 2 UStDV) in German, English and French are attached to the BMF guidance as annexes 1 to 3. The samples are only intended to illustrate what information is required; so their use is not mandatory. However, relevant proofs in other languages require officially certified translations. An electronically received entry certificate may also be stored in printed form for VAT purposes. E-Mail submissions should also be stored. The generally accepted principles of proper data processing bookkeeping systems (GoBS) and digital documentation for data access and auditability remain unaffected.

The entry certificate may be issued as a collective confirmation in which supplies for up to one quarter are summarised. A reference to the specific complete delivery or collective invoice is sufficient.

The entry certificate may be signed by a representative of the recipient, as well as by the recipient himself. The authorised person may be, for example, an employee, an independent storekeeper or, in the case of a chain transaction, the actual (final) recipient at the end of the chain, but not an independent third party responsible for the transport of the goods (e.g. a shipper). A signature is not required in cases of electronic transmission (e.g. fax), if there is no justifiable doubt that the information can be attributed to the recipient, regarding which the BMF provides further advice.

Alternative documentation in particular transportation and transactional cases

The following alternative documentation to entry certificates in particular may be considered:

Confirmation of dispatch in cases of dispatch (§ 17a (3) sent. 1 no. 1a UStDV)

Of particular consideration is a CMR waybill, containing the signature of the consignor in box 22 as the carrier's principal, and the recipient's signature in box 24 as confirmation of the receipt of the delivery. The regulations on entry certificates with respect to the recipient's signature apply mutatis mutandis.

Carrier's receipt in cases of dispatch (§ 17a (3) sent. 1 no. 1b UStDV)

The BMF guidance includes a sample as Annex 4. This sample is not identical to the "White Carrier's Confirmation" for exports. In accordance with Section 6.7 (2) sent. 2 of the VAT Application Decree (UStAE) the confirmation need not be signed personally by the carrier if the Regional Tax Authority responsible for the carrier has approved the use of the signature stamp (facsimile) or a printout of the name of the responsible person, and reference is made to the approval in the carrier's receipt, quoting the date and reference number.

Order confirmation and shipping report in cases of dispatch (§ 17a (3) sent. 1 no. 1c UStDV)

On the one hand, a written or electronic order confirmation (see Sections 6a.5 (5) and (6) UStAE regarding the required details with simplification provisions) is required. On the other hand, a report prepared by the commissioned forwarder (e.g. courier service provider) which can verify the transport of the goods up to its delivery to the recipient is necessary. Such so-called tracking-and-tracing protocol must show the month and final destination of the transport. For simplification purposes, when shipping one or more items with a total value up to 500 Euros, the trader may provide the evidence without such report by proving payment of the consideration.

Confirmation of receipt by a postal services provider in cases of dispatch and proof of payment (§ 17a (3) sent. 1 no. 1d UStDV)

This documentary proof may only be considered if proof per *§ 17a (3) s. 1 no. 1c UStDV* (see above) is not possible.

Sections 6a.5 (7) and (8) UStAE contain further details with respect thereto. So that, in particular, confirmation of receipt with proof of payment which, for example, is provided by a courier service provider in the form of a protocol covering the transport up to the handover of the goods to the last sub-carrier, is eliminated as documentary evidence.

Forwarder insurance in cases of dispatch on behalf of the recipient and proof of payment from a recipient's bank account (§ 17a (3) sent. 1 no. 2 UStDV)

On that subject, the BMF guidance includes a sample of the assurance enclosed in Annex 5. Sections 6a.5 (9) and (10) UStAE contain further details with respect thereto. As in the case of carrier confirmations, Section 6.7 (2) sent. 2 UStAE applies mutatis mutandis.

Please note:
In cases of cross-border chain transactions in which a number of undertakings enter into sales transactions involving the same item and the goods pass directly from the first undertaking to the final recipient, there is a special feature regarding the provision of proof, as only one of the deliveries (the so-called "moving" supply) can be zero rated (see the most recent BFH decision of 28 May 2013, XI R 11/09, MwSt.VAT Newsletter August 2013). It remains to be seen whether and when there will be a reworking of the UStAE as a result of the changes in the BFH and European Court (EuGH) legal precedents. With the newly inserted Section 3.14 (10a) sent. 1 UStAE, the tax authorities have already expanded their approach to verification. So that if appropriate, for example, the presentation of a written power of attorney should also be necessary as proof of the pick-up authorisation for checking where there is specific doubt in individual cases.

Changes to the VAT Law by the AmtshilfeRLUmsG

BMF, guidance of 12 September 2013 – IV D 3 – S 7117-e/13/10001;
BMF, guidance of 13 September 2013 – IV D 3 – S 7155-a/08/10002;
BMF, guidance of 19 September 2013 – IV D 3 – S 7279/12/10002

The BMF has commented on the individual changes resulting from the Act on the Implementation of the Administrative Cooperative Directive and the Amendment of Certain Tax Regulations (AmtshilfeRLUmsG), see MwSt.VAT Newsletter July 2013, with a number of guidances. The crucial points of the BMF guidances are as follows:

Change in the place of supply for long-term leasing of means of transportation to non-entrepreneurs (§ 3a (3) no. 2 UStG) since 30 June 2013
The place of supply for the long-term leasing of a means of transportation to non-entrepreneurs is generally the place at which the services recipient is domiciled or has his registered office. The BMF comments on the changes in its guidance of 12 September2013. The regulations are to be applied to transactions undertaken after 29 June 2013. If the fixing of the place of supply in the case of long-term leasing of means of transportation to a non-entrepreneur is undertaken because of the law of another member state after 31 December 2012 and before 30 June 2013 substantially in accordance with the not yet applicable change in the law, this will not be faulted if that local regulation is complied with. The fiscal administration thereby accepts the consequences of the delayed implementation of EU law into the German law governing VAT.

A change in the place of supply may occur, in particular, in the case of the long-term, paid use of a car for private use by the personnel, for example, within the framework of a company car regulation. This may lead to a registration by a foreign business if it makes a car available for private use to those of its workers who live in Germany (private journeys, journeys between home and workplace, as well as home-leave journeys where two households are maintained), even if the employee is not required to make a contribution.

Changes in the scope of reverse charge (§ 13b UStG)
§ 13b UStG was particularly so amended that even in cases of the supply of gas via the natural gas grid and of electricity by an business located in Germany to another business who is himself undertakes such natural gas supply or, just like the supplying business, is a reseller of electricity within the meaning of § 3g UStG, the tax liability is transferred to the recipient of the service. This amendment came into force on 1 September 2013. With its guidance of 19 September 2013, the BMF commented on the scope of the application of the new regulation with respect to both content and timing, in particular in association with an interim regulation for sales prior to 1 January 2014, on which the contracting partners may rely, subject to certain preconditions. The BMF also commented on the other amendments to § 13b UStG. The tax liability in cases of passenger transportation is dealt with in Section 13b.10 UStAE, and in the case of businesses resident abroad in Section 13b.11 UStAE.

Changes in the release from tax for aviation industry sales (§ 8 (2) no. 1 UStG) since 1 July 2013
§ 4 no. 17b UStG refers to the transport of sick and injured persons with vehicles which are specifically designed for that purpose (see Section 4.17.2 UStAE). According to the BMF guidance of 13 September 2013, the business is VAT exempt under § 4 no. 17b UStG on an insubstantial amount of domestic air transport if billings for the sales in the previous calendar year did not exceed 1 % of the charges for his passenger domestic and international air transport undertaken in each time period, or the number of those flights which, under § 4 no. 17b UStG were undertaken tax-free, limited to the domestic flights, in the previous calendar year did not exceed 1 % of the total number of passenger flights undertaken by the business.

Please note:
It is to be expected that the BMF will also comment on the amendments to the invoicing rules (§§ 14, 14a UStG) and the right to deduct input tax (§ 15 UStG) under the AmtshilfeRLUmsG (see the reference by the Revenue Office of the State of Thuringia in its 17 July 2013 regulation (S 7030 A – 12 – A 5.14).

Payments by the manufacturer/dealer to Autobanks and other financial institutions

BMF, guidance of 24 September 2013 – IV D 2 – S 7100/09/10003

The BMF commented on the financing of the sales of cars and other goods where the customer enters into a financing/leasing contract with an Autobank or other financial institution at well below normal market rates. Autobanks are banks belonging to car manufacturers to provide finance to the buyers of their products. To compensate, the manufacturer/dealer must make a payment to the Autobank or other financial institution. The loan/leasing contract concluded between the financial institution and the customer only shows the subsidised interest rate or leasing instalment. Thus the customer is unable to draw any conclusions regarding the nature and amount of the compensation payments.

According to the BMF, such compensation payments may constitute a payment for a unique service, a reduction in consideration or a charge by a third party. In assessing the payment for VAT purposes, the motivation of the parties in each case must be taken into account.

Considering the Autobank's motivation and the associated targeted granting of a commercial benefit to the manufacturer/dealer, the Autobank provides an additional service in the shape of the promotion of sales by the provision of finance at rates below normal market levels. Compensation payments by the manufacturer/dealer thus constitute payment of consideration for an additional service by the Autobank to the payer. The principles must be applied to all open cases.

There are institutions other than Autobanks which act as financing partners and are independent of manufacturers/dealers. The financing is also undertaken by granting credit (usually consumer credit for the purchase of furniture and electrical appliances, for example) or renting the object under a leasing contract. The sole motivation of the credit institution is the entering into a credit transaction. No service is provided to the payer. The payment is by a third party for the provision of the credit. The motivation of a leasing

enterprise is also limited to the conclusion of a leasing contract, so that no service is provided to the payer of compensation. By the compensation payment, the charge for the supply to the leasing company is reduced. Only in exceptional cases can the statements to the Autobank apply mutatis mutandis to the leasing company. The principles must be applied to all open cases. However, it will not be faulted if, with respect to supplies prior to 1 January 2014 the parties, referring to the BMF guidance of 28 September 2011 regarding the compensation payment, treat it as a charge for an additional service of the financing institution and, prior to the publication of the BMF guidance of 24 September 2013 in the Federal Tax Gazette proceed accordingly.

Please note:
With its guidance of 28 September 2011, the BMF had already commented on the treatment for VAT purposes of cheaper interest and leasing instalments to promote sales in the automobile industry. In those cases of customer financing by an Autobank (and "comparable cases"), the fiscal administration sees the payments by the dealer to the financing bank as consideration for a taxable service to the dealer (promoting the auto dealer's sales), and negates it as compensation from a third party with respect to the financial service of the bank to the car buyer. The application of the BMF guidance to "comparable cases" opened not inconsiderable scope for interpretation as to whether and to what extent the principles outlined also apply to other industries. The BMF's 24 September 2013 guidance clarifies the difference in the treatment for tax purposes between the financing by Autobanks and the financing by other institutions (consumer credit in the retail sector in particular).

LITERATURE TIP

Driving Impact – Creating value in tomorrow's world

Nowhere is globalisation as strong as in the worldwide networking of individual undertakings, industries and entire geographical areas. The global value creation networks are the modern economy's new paradigm. The consequence of this development: none of the major questions with respect to the economic future can be answered without taking the contribution of the supply chains into account.

In their new book "Driving Impact – Value Creation in Tomorrow's World", the supply chain experts and KPMG partners Sven Marlinghaus and Christian Rast, together with the futurologists of TrendONE, offer an insight into the our economy's real current dominant megatrends. The authors also explain, using recommendations for action, how companies and public entities can adapt their value creation chains to these trends; with contributions from Theo Waigel, Helmut Haussmann, Claus Hipp, Rolf Tophoven, and others.

You can find out more at: www.drivingimpact-buch.de

Contacts

KPMG AG
Wirtschaftsprüfungsgesellschaft

Head of Indirect Tax Services
Dr. Karsten Schuck
Frankfurt am Main
T + 49 69 9587-2819
kschuck@kpmg.com

Berlin
Stephanie Alzuhn
T + 49 30 2068-1390
salzuhn@kpmg.com

Martin Schmitz
T + 49 30 2068-4461
martinschmitz@kpmg.com

Duesseldorf
Peter Rauß
T + 49 211 475-7363
prauss@kpmg.com

Frankfurt / Main
Prof. Dr. Gerhard Janott
T + 49 69 9587-3330
gjanott@kpmg.com

Wendy Rodewald
T + 49 69 9587-3011
wrodewald@kpmg.com

Ursula Slapio
T + 49 69 9587-2600
uslapio@kpmg.com

Hamburg
Gregor Dzieyk
T + 49 40 32015-5843
gdzieyk@kpmg.com

Kay Masorsky*
T + 49 40 32015-5117
kmasorsky@kpmg.com

Antje Müller
T + 49 40 32015-5792
amueller@kpmg.com

Cologne
Peter Schalk
T + 49 221 2073-1844
pschalk@kpmg.com

Munich
Dr. Erik Birkedal
T + 49 89 9282-1470
ebirkedal@kpmg.com

Günther Dürndorfer*
T + 49 89 9282-1113
gduerndorfer@kpmg.com

Kathrin Feil
T + 49 89 9282-1555
kfeil@kpmg.com

Claudia Hillek
T + 49 89 9282-1528
chillek@kpmg.com

Stuttgart
Dr. Stefan Böhler
T + 49 711 9060-41184
sboehler@kpmg.com

* Trade & Customs

International Network of KPMG

If you would like to know more about international VAT issues please visit our homepage KPMG International**. Further on this website the periodical KPMG publications "Global Indirect Tax Brief" and "Indirect Tax Update" (KPMG LLP in UK) are published. We would be glad to assist you in collaboration with our KPMG network in your worldwide VAT activities.

You can also get up-to-date information via the homepage of KPMG Europe LLP** with Belgium, Commonwealth of Independent States (CIS), Germany, Luxembourg, the Netherlands, Norway, Saudi Arabia, Switzerland, Spain, Turkey and United Kingdom as member firms.

**Please note that neither KPMG International nor KPMG Europe LLP provide any client services.

Imprint

Issuer
KPMG AG Wirtschaftsprüfungsgesellschaft
THE SQUAIRE, Am Flughafen
60549 Frankfurt / Main

Editor
Ursula Slapio (Responsible***)
T + 49 69 9587-2600
uslapio@kpmg.com

Thomas Claus
T + 49 69 9587-4676
tclaus@kpmg.com

Christoph Jünger
T + 49 69 9587-2036
cjuenger@kpmg.com

MwSt.VAT Newsletter – Free Subscription
To subscribe, please register at
https://www.kpmg.de/newsletter/subscribe.aspx

www.kpmg.com/de

*** Responsible according to German Law
(§ 7 (2) Berliner PresseG)