Adjustment of VAT

Upon cancellation of an invoice for goods or services or submission of a credit invoice because of reduction in the price of the goods or services after submission of a VAT return for the taxable period in which the supply of the goods or services was created, both the seller and the purchaser must indicate the corresponding amendments in the VAT return submitted concerning the taxable period during which the invoice was cancelled or the credit invoice was submitted. A credit invoice may only be submitted with regard to a specific invoice referred to in the credit invoice. The provision shall not be applied if the credit invoice has been submitted due to a failure to pay for goods or services partially or in full (subsection 7 of § 29 of the VAT Act).

Therefore, this provision of the VAT Act is applied if the circumstances of the transaction change — for example, the transaction is cancelled or the price of the transaction is changed and, as a result, a credit invoice is issued. In this case, the supply and the amount of VAT due are adjusted in the VAT return for the tax period in which the credit invoice is submitted and not in the previous one.

If **a taxable person has made an error in the completion of a VAT return** and therefore has to amend the data in the VAT return submitted in respect of the previous month, he or she must make corrections to the VAT return previously submitted in accordance with subsection 5 of § 27 of the VAT Act and submit a new VAT return with corrected data for the earlier period. That provision, therefore, applies to errors made in the VAT return — for example, supply has not been declared, supply has been declared at the wrong tax rate, taxable supply has been declared incorrectly as supply exempt from tax, etc. In such a case, there is no amendment or cancellation of the transaction, since the circumstances of the transaction remain the same — the taxable person must adjust the invoices of previous periods only for VAT purposes.

If **a seller receives money from a purchaser but the goods are not transferred or the services are not provided**, the seller is permitted to cancel the calculation of value added tax on such goods or services if the seller refunds the amount to the purchaser (subsection 9 of § 29 if the VAT Act). Therefore, the transaction need not be declared in the VAT return if the transaction for which the advance payment has been made has not taken place. The condition here is that the amount paid in advance is refunded to the purchaser before the date of submission of the VAT return. If the advance payment is refunded after the submission of a VAT return, the VAT recalculation must be made in accordance with either subsection 5 of § 27 or subsection 7 of § 29 of the VAT Act.

If **the supply of goods has been effected but the contract under which the ownership of the goods is to pass to the contractual user of the goods upon termination of the contract is cancelled** and the purchaser who is not registered as a taxable person returns the goods, the seller may adjust the amount of VAT payable for the taxable period in which the goods were returned by the amount of VAT refunded to the purchaser (subsection 8 of § 29 of the VAT Act).

Therefore, where goods are sold on the basis of a transaction which provides for the transfer of

ownership of the goods by payment of the last instalment, it is treated as a transfer of goods and the VAT liability arises on the sale price of the goods immediately upon delivery of the goods. If the goods are returned before the expiry of a contract, a credit invoice and a VAT recalculation may be made on the basis of the taxable value of the service actually provided. In this case, it has subsequently become apparent that it was not a sale of goods but a supply of services. In such a case, both the seller and the recipient of the service must make a recalculation of input VAT on the VAT return of the month in which the credit invoice was submitted.

In the case of the sale of goods subject to VAT refund or tax-free sale the seller may declare the sale of the goods as an export of goods subject to a zero rate only after he has received a receipt certified by the customs authorities or the Police and Border Guard Board certifying that the goods have been exported. If the sale of the goods has to be declared before the receipt is returned, the taxable person must initially declare the sale of the goods as domestic supply and later adjust the VAT return for the month in which the receipt was received, reducing the amount of the domestic supply and declaring the sale as a zero-rate taxable export in fields 3, 3.2, 3.2.1 of the KMD (subsection 6 of § 29 of the VAT Act).

Upon **deletion from the register** the taxable person must pay VAT on goods not yet transferred if the person has deducted the input VAT on such goods upon acquisition. The acquisition cost or, in the absence thereof, the cost price of the goods is the taxable value of the goods. The input VAT deducted upon acquisition of fixed assets not yet transferred must be adjusted pursuant to provisions of subsection 4 of § 32 of the VAT Act (subsection 10 of § 29 of the VAT Act). A taxable person is required to pay VAT on the acquisition cost of goods which have not been transferred at the time of deletion from the register, such as goods in stock acquired for the purposes of transfer, in respect of which input VAT has been deducted. The principles of recalculation of input VAT on fixed assets must be applied to fixed assets not yet transferred.

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