



Can a holding company recover input VAT in case of services contributed free of charge to subsidiaries and used by them for their exempt activities?

In the recent case Finanzamt R v W GmbH (8th September 2022, C-98/21), the Court of Justice of the European Union clarifies the input VAT recovery right of a holding company on costs linked to a shareholder contribution in kind to its subsidiaries.

The present case was related to an active holding providing accounting and management services to its subsidiaries. This holding company carried out such services to two of its subsidiaries. The last ones had mostly VAT exempt activities giving them a limited deduction right on their costs.

The issue relates to the fact that the holding company supplied services acquired from third parties to its subsidiaries in return for the grant of a share in the general profit, the services contributed being for the needs of the subsidiaries' exempt activities.

The Court stated that this holding company was not entitled to deduct the input VAT levied on the said services that it purchased from third parties and that it provided free of charge to its subsidiaries, where:

- the acquired services had direct and immediate links not with the holding company's own transactions but with the largely VAT exempt activities of its subsidiaries;
- those services were not included in the price of the taxable transactions carried out by the holding company to its subsidiaries;
- the said services were not part of the general costs of the holding company's own economic activity.

While this case merely applies the rules already set out by the Court of Justice of the European Union in its previous decisions, it demonstrates once again that there are some limitations to the right to deduct for active holding companies.

Our VAT team remain at your entire disposal should you have any question or need of assistance related to this topic.

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