



Delayed VAT Refund – Possibility of Receiving Interest

We would like to draw your attention to the resolution of the Supreme Administrative Court (NSA) regarding tax on goods and services (VAT).

Resolution of the NSA dated 23 February 2009 (I FPS 5/08)

This resolution relates to the obligation of tax authorities to pay interest in an amount equal to the deferment fee in all cases where there is a delayed VAT refund. This obligation arises if the refund is granted after the deadline, even if explanatory proceedings confirm the legitimacy of the tax authorities' assessment of the amount of the VAT refund. The court indicated that interest is also due in cases where there is a VAT refund in an amount different (lower) than the one included in a VAT declaration; the interest due will be calculated based on the amount of refund determined in the decision of the tax authorities.

This resolution was passed under the former VAT Act of 1993. However, our recent experience indicates that the tax authorities also consider this resolution valid in relation to VAT refunds based on the VAT Act of 2004. It may therefore be worth checking whether you have received the correct amount of interest due if you have received a VAT refund made after the relevant deadline.

If you believe that the above may have implications for your business, we will be pleased to assist.

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