



VAT alert Belgium

Sale of discount cards not exempt from VAT



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In the Granton Advertising case (a Dutch case), the European Court of Justice recently ruled that the sale of discount cards does not qualify for a financial services VAT exemption and thus remains subject to VAT.

Facts

Granton Advertising issues and sells Granton cards. These cards entitle customers to discounts in restaurants, cinemas, hotels and saunas. The discount cards are sold through sales offices to customers for a fee. Granton Advertising argues that the issue and sale of these discount cards should be exempt from VAT as financial products, namely securities or negotiable instruments.

VAT treatment of Granton cards

If discount cards would be characterised as securities or other negotiable instruments upon sale, a VAT exemption applies and no VAT needs to be levied on the selling price received.

To qualify as a security, according to the Court of Justice, it should concern securities regarding a property right over legal persons, securities representing a debt, or securities that have to be regarded as being comparable to these in nature. This is not the case with the Granton Cards.

Additionally, the cards do not have a nominal value and cannot be exchanged for cash or products of the affiliated businesses. The Court of Justice therefore considers that it does not concern negotiable instruments either. Although the Granton cards entitle holders to price reductions, they are not a payment instrument since use of the cards does not produce a monetary transfer.

Consequently, the sale of the discount cards is subject to VAT.

VAT treatment with the affiliated businesses

The Court of Justice further concluded that the use of the Granton card by the buyer of products/services cannot be considered as a (partial) payment for the goods/services received from the Granton card affiliated businesses. There is no sufficient direct link between the amounts paid by the consumers in order to obtain the Granton card and the goods or services which may be obtained by those customers from the affiliated businesses. Moreover, the affiliated businesses do not receive any part of the revenue obtained by Granton Advertising. Therefore, the use of the Granton card leads to a price reduction and to a lower VAT amount on the sale itself. From that perspective, there is no double taxation.

Impact

all purchases over a period of time at the affiliated businesses. It is aligned with the historical approach of such cards in Belgium by the VAT authorities.

Please note that this situation is quite different from the discount voucher which gives the holder a right to receive a discount or rebate in relation to a supply of goods or services, whereby the right is one-off and linked to one or more specific supplies.

In 2012, the European Commission published a proposal for a council Directive on the VAT treatment of vouchers (discount vouchers among others) in order to align the different viewpoints within the EU. Currently, this proposal is still being discussed; a uniform European approach is therefore not yet in place.

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