



VAT alert Belgium

CJEU Cardpoint case: ATM related services are not VAT exempt

On 3 October 2019, the Court of Justice of the European Union (CJEU) ruled that certain ATM related services supplied to banks are not VAT exempt (Case C-42/18 Cardpoint GmbH – [Dutch](#) | [French](#)).

Background

Cardpoint GmbH ('Cardpoint') is a German company that supplied services to banks regarding the operation of cash dispensers ('ATMs'); more specifically, it installed ATMs for banks (including relevant brand logos). Cardpoint was also responsible for keeping the ATMs operational, by providing the required hardware and software, and by ensuring cash transportation. In addition, Cardpoint was also involved in cash withdrawals from its ATMs, given that relevant data was transferred through its proprietary software to the issuing bank, and then proceeded with the withdrawal request after receiving confirmation from the issuing bank.

The question referred to the CJEU was essentially whether Cardpoint could benefit from the VAT exemption provided for 'payment transactions', under article 135(1)(d) of the VAT directive.

No payment service

In line with its previous case law, the CJEU considered that a payment, or transfer service, essentially consisted in the transfer of a sum of money from one bank account to another. It is particularly characterised by a resulting change in the legal and financial situation that exists between the person giving the order and the recipient. The functional aspects of such a service is thus the effective transfer of money. In other words, the service must encompass the specific and essential functions of a money transfer, therefore entailing the movement of funds and changes in the parties' legal and financial situation. A payment service must therefore be distinguished from the mere supply of a physical or technical service.

In the case at hand, the provider only provided data to the banks to enable their execution of the underlying transfers. Hence, Cardpoint did not approve the withdrawals, but merely provided data to the banks. The fact that Cardpoint's services are indispensable for the transfer does not mean that its services also classify as a payment service per se, since they lack the essential elements of a financial service as explained above.

Therefore, the CJEU ruled that the operational ATM services rendered by Cardpoint cannot be deemed VAT exempt transfer services, hence remain subject to VAT.

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