



## VAT alert Belgium

### Reduced VAT rate not applicable to e-books

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In a judgment of 5 March 2015, the European Court of Justice (CJEU) has ruled that e-books cannot benefit from a reduced VAT rate, contrary to printed books (Cases Commission/Luxembourg (C-502/13) and Commission/France (C-479/13)).

#### Facts

Since 1 January 2012, Luxembourg and France applied a reduced VAT rate to e-books that are downloaded or streamed from a website. Luxembourg and France reasoned that, as they are functionally identical, no distinction is to be made between printed and digital formats.

The European Commission however, considered that the application of a reduced VAT rate to the supply of digital or electronic books went against the VAT Directive. Consequently, the European Commission had lodged an appeal with the CJEU against France and Luxembourg.

It should be noted that, in these procedures, Luxembourg and France were supported by Belgium.

#### Decision of the CJEU

The CJEU considered that e-books that are not supplied through a physical carrier are not mentioned in Annex III to the VAT Directive that lists the goods for which member states can introduce a reduced VAT rate. Therefore, e-books that are streamed or downloaded from a website may not benefit from a reduced VAT rate.

According to the CJEU, this interpretation is supported by the context of Annex III to the VAT Directive. As these provisions are exceptions to the principle that Member States are to apply a standard VAT rate to transactions subject to VAT, they must be interpreted strictly. Moreover, the VAT Directive and the Implementing VAT Regulation explicitly treat the supply of digitised content as an electronically supplied service. Such electronic service is excluded from the scope of reduced VAT rates.

According to the CJEU, even the principle of fiscal neutrality cannot extend the scope of the reduced VAT rates to the supply of e-books.

Finally, the CJEU considers that streamed or downloaded e-books cannot be regarded as supply of services by writers, composers and performing artists. The wording of this provision does not allow e-books to be regarded as such services.

## Contacts

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