

Input VAT newsletter



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March 2015

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In your diary:

Final deadline for
submitting your return
for:

December 2014:
15 March 2015

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CJEU ends reduced VAT rate on e-books - CJEU Case C-502/13

On 5 March 2015, the CJEU published its decision in the Case C-502/13, Commission vs. Luxembourg. The dispute concerned the VAT rate to be applied to e-books in Luxembourg.

Since the 1st of January 2012, Luxembourg had applied its super-reduced VAT rate of 3% to the sale of e-books, mainly based on the argument that a broad interpretation should be given to the notion of books, so that no distinction between a physical and an e-book should be made.

On its turn, the Commission argued that applying a 3% VAT rate was against to the obligations lying under Council Directive 2006/112/EC, which clearly prevents Member-States to apply reduced rates to electronically supplied services.

On its decision, the CJEU has agreed with the arguments of the Commission, declaring that the application of a 3% VAT rate is against the said Council Directive and also disregarding other arguments supported by Luxembourg to apply a 3% VAT rate, such as the qualification of such supply as a supply of goods or that such distinction would breach the principle of fiscal neutrality.

In the same coherent way, France, as well, cannot longer apply its reduced VAT rate on e-Books.

E-books are therefore subject to the standard VAT rate.

We note that the place of taxation to define the appropriate standard VAT rate to apply in a "B2C" transaction must be determined according to the new VAT e-Commerce rules that are in force since the 1st of January 2015.

VAT exemption on the management of Funds – CJEU Case C-595/13

In a new Case "*Fiscale Eenheid X NV cs*" C-595/13, the CJEU will have a new opportunity to define the scope of the VAT exemption on the "management of Funds".

The questions referred are the following ones:

- ✓ *Is Article 13B(d)(6) of the Sixth Directive 1 to be interpreted as meaning that a company which has been set up by more than one investor for the sole purpose of investing the assets assembled in immovable property may be regarded as a special investment fund within the meaning of that provision?*
- ✓ *If the answer to Question 1 is in the affirmative: is Article 13B(d)(6) of the Sixth Directive to be interpreted as meaning that the term 'management' also covers the actual management of the company's immovable property, which the company has entrusted to a third party?*

According to the Court Calendar, the conclusions of the Advocate General, Mrs. Kokott, should be issued on the 20th of May 2015.

This Case should be carefully followed in Luxembourg to ensure that this future decision would not impact the scope of the Luxembourg Investment vehicles currently eligible to the VAT exemption on management services.