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By PwC Deutschland | 09. Mai 2022

ECJ: VAT treatment of city-card for tourists as multi-purpose voucher

In a Swedish reference for a preliminary ruling, the European Court of Justice (ECJ) had a first opportunity to comment on the distinction and VAT treatment of single-purpose vouchers and multi-purpose vouchers in Article 30a of the VAT Directive. According to the ECJ, the city-card of Stockholm can be viewed as a multi-purpose voucher as mentioned in Article 30a (3) VAT Directive, provided it meets the criteria for a voucher as set in Article 30(1) which is finally to be confirmed by the referring court.

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Background

In the case *DSAB Destination Stockholm* the ECJ was asked to comment on the VAT treatment of the city card offered to visitors to the city of Stockholm. The card gives the cardholder the right to be admitted to around 60 attractions, such as sights and museums, for a limited period and up to a certain value. It also allows the cardholder access to several passenger transport services and a variety of sightseeing tours. Some of those services are subject to VAT at rates ranging from 6% to 25%, while others are tax exempt. The Swedish tax authority contends that the city-card cannot be classified as a 'voucher' within the meaning of Article 30a of the VAT Directive since it is a form of leisure card, the value limit of which is very high in relation to its very short validity period. Thus, an average consumer would not be able to take advantage of all the possibilities offered by that card.

The question referred to the ECJ: *Must Article 30(a) of the VAT Directive be interpreted as meaning that a card, such as the one at issue in the main proceedings, which gives the cardholder the right to receive various services at a given place for a limited period and up to a certain value constitutes a voucher and, in such circumstances, constitutes a multi-purpose voucher?*

Decision of the ECJ on…

…the requirements to be recognized as a voucher:

According to the EU provision in question, a 'voucher' is an instrument where, first, there is an obligation to accept it as consideration or part consideration for a supply of goods or services and, second, the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument. In the present case, it is apparent that those two conditions would appear to be satisfied, which is, however, a matter for the referring court to finally ascertain.

The concerns raised by the Swedish tax authorities that the city card cannot, in any case, constitute a 'voucher' because it is impossible for an average consumer to take advantage of all the services offered, were not shared by the ECJ: It is not evident from Article 30a(1) that either the validity period of the city card or the possibility of not taking advantage of all the services covered by that card are relevant stand-alone criteria to classify that card as a 'voucher'.

… the distinction between 'single-purpose voucher' and multi-purpose voucher:

The concept of a 'multi-purpose voucher' within the meaning of Article 30a (3) of the VAT Directive is a fallback clause: All vouchers other than single-purpose vouchers would therefore be multi-purpose vouchers. It is therefore necessary to ascertain, first, whether that card falls within the scope of the concept of 'single-purpose voucher' referred to in Article 30a (2) of the VAT Directive. Pursuant to the latter provision, a 'single-purpose voucher' is defined as a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issue of the voucher. In the present case, it is apparent that the city card allows access to various

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supplies of services, which are subject to different rates of VAT or are tax exempt, and that it is impossible to predict in advance which supplies of services will be selected by the cardholder. Due to the fact that the VAT due on the services obtained by the cardholder is not known at the time of issue, the city-card cannot be classified as a 'single-purpose voucher'.

Answer of the ECJ to the question referred

The city card may constitute a 'voucher' within the meaning of Article 30a(1) VAT Directive, even if, on account of the limited validity period of that instrument, an average consumer cannot benefit from all the services offered. The city card constitutes a 'multi-purpose voucher' within the meaning of Article 30a(3) VAT Directive, since the VAT due on those services is not known at the time of issuance of that instrument.

The ECJ went on to say that it is still for the referring court to confirm that the city card meets the criteria as a 'voucher', as explained in points 22 through 28 of its judgment.

Take away and German VAT situation

The current ECJ decision is of a clarifying nature, no more and no less. The ECJ didn't give more information away than was necessary in the case at hand.

In a circular of 2 November 2020, **the German Federal Ministry of Finance** (MoF) has commented on the VAT treatment of single-purpose and multi-purpose vouchers following the transposition of the EU Voucher Directive into national law as of 1 January 2019. It turns out that the ministerial comments essentially match the explanations given by the ECJ in its present decision in the case *DSAB Destination Stockholm*.

A voucher must convey an obligation to accept it as consideration for a delivery or service and identify the entrepreneur making the delivery, specifies the goods to be delivered item or the type of service. Section 3 (14) of the German VAT Act contains more information on single-purpose vouchers. A multi-purpose voucher is assumed if the criteria set out there for single-purpose vouchers are not met. For single-purpose vouchers, VAT arises at the time of issue and each time the voucher is transferred (but not when it is redeemed).

In the case of multi-purpose vouchers, the issue and transfer of the voucher are irrelevant for VAT purposes. VAT only arises at the time of redemption. According to the MoF, the general provisions apply for determining the place of supply and the taxable amount.

In addition, the MoF notes in its circular that vouchers that only entitle the holder to a price reduction or a price refund but do not confer the right to receive such goods or services are not affected by the new voucher regulations. Stamps, tickets, admission tickets for cinemas and museums as well as comparable instruments are also outside the scope of application.

Source:

The ECJ case reference is C-637/20 *DSAB Destination Stockholm* judgment of 28 November 2022. - The complete ECJ-decision to be found **here**.

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Schlagwörter

VAT, multiple-purpose voucher, voucher