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By PwC Deutschland | 22. April 2023

ECJ on VAT: Technical support and IT services for recharging electric vehicles incidental to main supply of electricity

According to a decision of the European Court of Justice (ECJ) in a Polish case, the supply of electricity for charging electric powered cars and other vehicles is a supply of goods that may consist of several different services at the re-charging stations.

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The case of dispute in the main proceedings concerns a combination of transactions comprising the supply of electricity for charging electric vehicles and the provision of various other services, such as (1) the provision of access to and facilitation of the use of charging points, (2) the necessary technical support and IT applications enabling the reservation of a connection, and (3) the tracking of transactions and the payment of transactions. The referring court believes the three transactions are so closely linked to the main service (supply of electricity) that they constitute a single complex transaction.

The ECJ confirms this view and held that a single complex supply which encompasses:

- access to recharging devices for electric vehicles (including integration of the charger with the vehicle operating system);
- the supply of electricity, within duly adjusted parameters, to the batteries of that vehicle;
- the necessary technical support for the users concerned; and
- the provision of IT applications enabling the user concerned to reserve a connector, view his or her transaction history, and purchase credits which are then accumulated in an e-wallet and used to pay for recharging sessions

constitutes a ‘supply of goods’ within the meaning of Article 14(1) of the VAT Directive 2006/112.

A supply of electricity to the batteries of an electric vehicle requires the use of suitable recharging devices, which may include a charger which is to be integrated with the vehicle operating system. Consequently, granting access to those devices constitutes a minimal supply of services which necessarily accompanies the supply of electricity.

The technical support which may be necessary for the users concerned constitutes, for its part, not an end in itself, but a means of better enjoying the supply of the electricity necessary to propel the electric vehicle. It thus constitutes a supply which is ancillary to that supply of electricity.

That is also true for the provision of IT applications enabling the user concerned to reserve a connector, to view his or her transaction history and to purchase credits for the purpose of paying for recharging sessions. Such supplies offer that user certain additional practical facilities whose sole purpose is, on the one hand, to improve the transfer of the electricity necessary to recharge his or her vehicle and, on the other, to provide an overview of previous transactions.

It follows that, in principle, the transfer of electricity constitutes the characteristic and predominant element of one single complex supply in respect to the questions raised by the referring court.

Source:

ECJ judgment of 20 April 2023, case: **C?282/22** *Dyrektor Krajowej Informacji Skarbowej*

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