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By PwC Deutschland | 16. Dezember 2025

ECJ: Person liable for VAT in case of joint action by several persons as partners in a company without legal personality

In a most recently published judgment, the European Court of Justice (ECJ) held that the VAT Directive precludes a national legislation which provides that one of the partners in a civil law partnership devoid of legal personality separate from that of its partners and providing taxable services is to be deemed to be the person liable to pay value added tax in respect of taxable services provided by the other partners in that partnership.

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Background

Following a request for a preliminary ruling from the Supreme Administrative Court of the Czech Republic, the ECJ was asked to clarify the identity of the taxable person who has carried out a transaction and who is therefore also liable for the corresponding VAT. That question arises in the context of an interaction of four legal persons, some of whom appear to fall below the small enterprise threshold. If all the transactions, added together, had been carried out by a single ‘society’ made up of those four legal persons, that threshold would probably be exceeded.

In 2017, ?eská sí? cooperated with three companies established in the United States and operating in the Czech Republic through branch offices. ?eská sí? and the branch offices concerned provided services to end customers consisting principally in providing them with internet connections. Each of those branch offices dealt with its own customers and acted in its own name and recorded income from those services for 2017.

The local tax office issued 12 tax adjustment notices addressed to ?eská sí? for VAT due. Those tax adjustment notices were based on the consideration that there were links between ?eská sí? and the branch offices concerned which led the tax authorities to conclude that there was a ‘partnership’, of which ?eská sí? was the ‘designated partner’. As such, it was liable to pay VAT for the entire ‘partnership’.

ECJ decision

The ECJ held, that Article 9 (1) and Article 193 of VAT Directive precludes a national legislation which provides that one of the partners in a civil law partnership devoid of legal personality separate from that of its partners and providing taxable services is to be deemed to be the person liable to pay value added tax in respect of taxable services provided by the other partners in that partnership, even though those other partners have dealt with their end customers for the provision of those services. It is irrelevant that, in order to do so, those other partners have departed from the rules of civil law governing the representation of that partnership in relations with third parties by dealing with their end customers in their own name.

The branch offices provided taxable services to their own end customers, which consisted mainly of providing internet connections. Each of those branch offices performed those services in its own name and recorded the income which it derived therefrom in the relevant tax year. The fact that, in their relations with third parties, the branch offices concerned essentially presented themselves without directly mentioning the ‘partnership’ or one of its partners, in particular ?eská sí?, as the contracting party, even though the contractual documents contained certain elements that could prima facie indirectly identify the latter, is of particular importance in that regard.

The ECJ judgment of 11 December 2025 in the case C?796/23 *?eská sí? s. r. o.* **to be**

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