

By PwC Deutschland | 11 September 2014

Reduced VAT rate for books not necessarily applicable to e-books

The ECJ has held that the reduced VAT rate for books must be extended to e-books if the average consumer is likely to perceive the two products as essentially similar.

A Finnish publisher protested against the imposition of VAT at the standard rate on books and periodicals on electronic media such as CD-ROMs or USB sticks (e-books) whilst printed versions of the same publication were only taxed at the reduced rate. His argument essentially was that the intellectual content of the two products was identical and to tax them differently would be in breach of the principles of fiscal neutrality.

The ECJ held that the question was not solely a matter of content, but turned on the perception of the similarity of the products by the average consumer in the member state concerned. This would depend upon local factors including the degree of market penetration of the devices needed to access e-books. It was therefore a matter for the national court to determine. If the average local consumer could be expected to see e-books and printed books as essentially similar products, taxing them at different rates would be in breach of fiscal neutrality.

Note: the German and Finnish VAT acts are similar in this regard, though, obviously, a German court might well come to a different conclusion than its Finnish counterpart on the perceptions of an average consumer.

The ECJ case reference is C-219/13 *K Oy* judgment of September 11, 2014.

Keywords

books, e-books, reduced rate VAT