

Indirect Tax Services

Newsletter



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On 8 December 2016, the European Court of Justice delivered its judgment in the case of Stock '94 (c-208/15), that relates to whether the granting of financing in order to make supplies of current assets is to be considered a single or complex supply for VAT purposes.

This case re-iterates the principles that need to be considered in order to determine whether a supply of goods and services that comprises of more than one components is to be considered a single or complex supply.

1. Facts of the case

Stock '94 is a commercial company established in Hungary. Its activities comprise those of granting of loans to farmers, who use the loan to buy from Stock '94 the resources necessary for its production (e.g. seeds), referred to as 'current assets'. The Farmer subsequently sells its production either to Stock '94 or to the market through the intermediary of Stock '94. Stock '94 billed the farmers for the sale of the current assets, applying a VAT rate of 25% to the deliveries. However, it exempted from VAT the interest on the loans granted to the farmers for the purchase of the current assets.

During a tax inspection, the Tax Authority of Hungary took the position that the interest on the loans also constituted consideration for the sale of current assets and assessed VAT together with interest and penalty.

2. Questions referred to the ECJ

The questions referred to the ECJ concerned whether the VAT Directive must be interpreted as meaning that the grant of a loan used to purchase agricultural goods and the supply of those goods are to be regarded as a single complex transaction or as distinct and independent transactions.

3. Judgment of the Court

The Court re-iterated that normally every supply must be regarded as distinct and independent but, in certain circumstances, several formally distinct services, which could be supplied separately, must be considered as a single transaction when they are not independent.

There is a single supply where two or more elements or acts supplied by the taxable person to the customer are so closely linked that they form, objectively, a single, indivisible economic supply, that would be artificial to split. This is also the case when one or more supplies constitute a principal supply and the other supplies constitute one or more ancillary supplies which share the same tax treatment as the principal supply. In particular a supply is regarded as a principal supply if it does not constitute an end in itself but a means of better enjoying the principal service supplied.

Therefore, in the case at hand, the Court considers that since the loan granted can only be used by the Farmer for the purchase of the specific current assets and nothing else, the grant of the

loan does not constitute a supply with an independent interest from the perspective of the farmers. Furthermore, the supply of the current assets, constitutes for the farmers the principal supply and thus the loan to acquire those assets is not an end in itself. Therefore, the taxable amount of the supply of current assets is made up of both the price of the goods and the interest paid on the loan granted to acquire those goods.

4. Significance of the case and other considerations

This ECJ case re-emphasized the characteristics that should be considered when dealing with complex transactions comprising of two or more components. The Tax Authority has in the past issued Circular 186 which gives guidance on this matter.

5. Way forward: how PwC can assist

The dedicated team of VAT professionals at PwC is ready to assist you analyse and identify the correct VAT treatment of complex transactions which comprise of two or more components, each of which may have a separate VAT treatment when considered independently.

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