

Indirect Tax Services

Newsletter



Newsletter 60/ October 2016

On 15 September 2016, the European Court of Justice delivered its judgment in the case of *Senatex GmbH (C-518/14)*, that relates to invoices which were incomplete at the time of their issue and were later corrected.

This case is important as it clarifies that the correction of an incomplete VAT invoice has retrospective effect, giving the right to deduct input VAT at the point when the initial invoice was issued.

1. Facts of the case

Senatex GmbH, a fully taxable entity operating as a wholesale textile business, claimed input VAT on incomplete invoices which did not include the VAT registration number of the suppliers. During a VAT Audit, the German tax authorities, restricted the right for deduction (although all necessary corrections were made at a later stage) on the grounds that the initial invoices were not valid at the time when the supply of the service took place.

Senatex GmbH objected to this decision arguing that the conditions for the deduction of VAT were satisfied and the corrections made to the invoices should have retrospective effect from the date of the supply of the services to which the invoices relate and the matter was referred to the ECJ.

2. Questions referred to the ECJ

As a result of the above dispute the questions referred to the ECJ were the following:

- (a) What is the minimum requirement for an invoice to be eligible for correction with retrospective effect?
- (b) Is it compulsory for the original invoice to disclose a tax number or a VAT identification number, or can these be disclosed later with the consequence that the right to deduct input tax on the basis of the original invoice is retained?

3. Judgment of the Court

The ECJ ruled that the principle of VAT neutrality requires deduction of input VAT, if the requirements are satisfied, even in the cases where the taxable person has failed to comply with the formal invoicing requirements in the year in which the invoice was originally drawn up but was later corrected.

4. Significance of the case and other considerations

This ECJ case re-emphasized the importance of having a valid VAT invoice at the time when input VAT is deducted, however, it gives the opportunity to the tax payers to correct incomplete invoices with a retrospective effect.

To this end, tax payers have the chance to go back and correct incomplete invoices once identified having the right to deduct the input VAT at the time when the original invoice was drawn up.

5. Way forward: how PwC can assist

The dedicated team of VAT professionals at PwC is ready to assist you:

- (a) In verifying that valid invoices are in place at the time when input VAT is deducted and/or
- (b) Identify the cases where input VAT has been restricted and/or interest has been charged by the Tax Authority as a result of recovery of non-valid VAT invoice and renew/re-assess the tax payers' position based on the results of the above case.

Your contacts for Indirect Tax matters in PwC Cyprus:

Theo Parperis, Head of Tax & Legal Services - theo.parperis@cy.pwc.com

Chrysilios Pelekanos, In charge of Indirect Tax Services - chrysilios.pelekanos@cy.pwc.com

Varnavas Nicolaou - varnavas.nicolaou@cy.pwc.com

Martha Lambrou - martha.lambrou@cy.pwc.com

PricewaterhouseCoopers Limited
PwC Central
43 Demostheni Severi Avenue
CY-1080 Nicosia
Cyprus
Tel. +357 - 22 555 000

www.pwc.com.cy

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers Ltd, Cyprus, its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

©2016 PricewaterhouseCoopers Ltd. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Ltd of Cyprus, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.