

## VAT treatment of vouchers (3) (3/41/17)

This article explores the VAT treatment where a person that has bought a voucher does not use the underlying service.

The new VAT directive on vouchers is silent as to whether VAT should be charged on, or could be adjusted for, any vouchers that remain unused. In order to have a clear VAT treatment in such cases and avoid any distortion of competition, Latvia should resolve this issue by transposing the provisions of the directive into its national legislation. We hope that the Ministry of Finance will do so. Our analysis of other member states' experience suggests the following practice.

VAT adjustment where a single-purpose voucher remains unused

VAT is payable on a single-purpose voucher when it is handed over (issued).

Given the CJEU ruling on Air France-KLM case C-250/14, some member states assume that no adjustment should be made for VAT that has been paid to the government on the issue (sale) of a single-purpose voucher, unless the price paid is returned to the buyer of that voucher.

Under this approach the service is treated as supplied to the customer when the voucher was sold. By analogy with the opinion expressed in the court ruling, the supplier of goods and services that has issued vouchers is assumed to be under an obligation to properly supply the service, and performance of this obligation is possible only if customers arrive to receive the services (goods). The price paid when the voucher was bought is a consideration for rights acquired by the buyer of the voucher, i.e. the right to receive performance of the obligations arising from the voucher, and this service of rights transfer is treated as supplied regardless of whether the buyer of the voucher will exercise those rights. Accordingly, for VAT purposes the service is treated as supplied when the voucher was issued (sold).

The VAT treatment of a voucher issued for one particular service (e.g. a voucher for a restaurant meal) is sufficiently clear. But as we know, single-purpose vouchers are taken to include vouchers that provide for supplies of various services as long as they attract the same rate of VAT and the place of supply is known. Accordingly, in such cases the services are treated as supplied when the voucher was sold, and no VAT adjustment should be made if the voucher remains unused. This approach considerably differs from the earlier case law, which found that payment is a consideration for a taxable transaction only if mutual performance and all the characteristic elements of the transaction are clearly known and the service (product) is described with a sufficient degree of accuracy.

It is not clear whether in transactions involving the issue and sale of vouchers it is always assumed that the voucher provides for the right to receive the service or to choose between two or more services (possibly goods and services) and so the service supplied is not the particular service, but rather the right to receive it. This approach implies no VAT adjustment where a voucher remains unused. However, in each situation it is important to identify the obligations of the parties arising from the contract, and there might be situations that warrant adjustments for unused vouchers. We hope that the new VAT rules which Latvia is to adopt in the light of the amended directive will shed some light.

VAT adjustment where a multiple-purpose voucher remains unused

VAT on a multiple-purpose voucher is not chargeable when it is handed over, but rather when a supply of the underlying goods or services takes place. The purchase of a multiple-purpose voucher essentially amounts to buying a means of payment that can be exchanged for specified goods or services before expiry. Under this approach the voucher would still be exempt from VAT even on expiry. However, there is a difference of opinion across the EU as to whether these vouchers should be taxed on expiry.

It would only be reasonable to expect that all the outstanding issues will be resolved in the course of implementing the vouchers directive, including the question of whether dealings in multiple-purpose vouchers that eventually remain unused and result in taxable transactions would have any effect on the right to deduct input VAT.

The VAT treatment of vouchers is quite complicated, and so we recommend you seek advice from the SRS or tax consultants in order to identify the VAT implications before you engage in dealings with vouchers.

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[VAT treatment of vouchers \(1\)](#)

[VAT treatment of vouchers \(2\)](#)