

Mette Nielsen

Fra: Gea Raissar-Leppik <gea.raissar-leppik@mfa.ee>
Sendt: 13. marts 2025 12:44
Til: Louise Wandahl Tavares
Emne: RE: DK question / VAT (C-501/19, UCMR-ADA)

Opfølgningsflag: Opfølgning
Flagstatus: Afmærket

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Dear Louise,

I am good, hopefully you too!

Here is the reply from our capital:

We continue to hold the view that the licensing to copyrights by the collective management organisations is outside the scope of VAT. According to EE Copyright Act, collective management organisation does not act on its own behalf, but on behalf of the copyrighter.

Same interpretation is given in the judgment of ECJ on 4th of July 2024 C-179/23 :
Article 2(1)(c), Article 24(1) and Article 25(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a collective management organisation for copyright and related rights supplies services, within the meaning of those provisions, where, first, it collects, distributes and pays, by law, to rightholders the remuneration owed to them by certain users defined by law and, secondly, it deducts from that remuneration a management fee which is due to it by those rightholders and which is intended to cover the costs incurred by that activity, in the event that the remuneration thus collected on behalf of those rightholders does not constitute consideration for services supplied, within the meaning of that directive, by those rightholders for the benefit of those users.

Best,
Gea

From: Louise Wandahl Tavares <lota@um.dk>
Sent: Tuesday, March 11, 2025 4:13 PM
To: Gea Raissar-Leppik <gea.raissar-leppik@mfa.ee>
Subject: DK question / VAT (C-501/19, UCMR-ADA)

Dear Gea,

I hope you are doing well.

We have a question from a parliament about the Estonian answers to the questions below (from 2022). Is your answers still valid and is it okay that we send it to our parliament?

If possible, we would highly appreciate your feedback before the end of the week.

In advance, many thanks!

Best, Louise

Fra: Elo Madiste <Elo.Madiste@mfa.ee>

Sendt: 09 March 2022 09:54

Til: Kristina Ellegaard Rasmussen <krelra@um.dk>; .BRUEEU FIN-19-EU Beaucamp, Pia Marie <fin-19-eu@brue.auswaertiges-amt.de>; Georgia NIKOLAOU <gnikolaou@mof.gov.cy>; Tatiani SFELINIOTI <t.sfelinioti@rp-grece.be>; De Mulder Robert - Belgium - Brussels EU <robert.demulder@diplobel.fed.be>; tatyana.koleva@bg-permrep.eu; Susan.Evans@dfa.ie; lidija.cvitic@mvep.hr; marco.iuvinale@mef.gov.it; vaidotas.linkevicius@eu.mfa.lt; Jules.Elsen@mae.etat.lu; Szabolcs.Lorant@mfa.gov.hu; msp@reper-portugal.be; vida.skomina@gov.si; maiija.skytta@formin.fi; MARRERO MARTIN, Saulo <Saulo.Marrero@reper.maec.es>; LIGNEREUX Bastien <bastien.lignereux@dgtrésor.gouv.fr>; Paul-Josef.RZEPA-STARK@bmeia.gv.at; Lenka.Mikulikova@mzv.cz; frantisek.bonk@mfsr.sk; nnd@fm.gov.lv; Maksoń Mariusz <Mariusz.Makson@msz.gov.pl>; blaine.camilleri.1@gov.mt; Johan Lindqvist <johan.lindqvist@gov.se>; Sintija Ozola <Sintija.Ozola@mfa.gov.lv>; Ioana Roxana IONESCU <ioana.ionescu@rpro.eu>

Cc: Lone Lau-Jensen <llj@skm.dk>

Emne: RE: DK question / VAT (C-501/19, UCMR-ADA)

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Dear Kristina,

We are sorry for the big delay of our reply. However, here are our short answer:

- a) In Estonia, the licensing to copyrights is outside the scope of VAT.
- b) At the moment, we are not planning to amend the Estonian VAT Act.

I hope it is still useful somehow.

Best regards

Elo

From: Kristina Ellegaard Rasmussen <krelra@um.dk>

Sent: Thursday, January 20, 2022 9:01 AM

To: .BRUEEU FIN-19-EU Beaucamp, Pia Marie <fin-19-eu@brue.auswaertiges-amt.de>; Georgia NIKOLAOU <gnikolaou@mof.gov.cy>; Tatiani SFELINIOTI <t.sfelinioti@rp-grece.be>; De Mulder Robert - Belgium - Brussels EU <robert.demulder@diplobel.fed.be>; tatyana.koleva@bg-permrep.eu; Susan.Evans@dfa.ie; lidija.cvitic@mvep.hr; marco.iuvinale@mef.gov.it; vaidotas.linkevicius@eu.mfa.lt; Jules.Elsen@mae.etat.lu; Szabolcs.Lorant@mfa.gov.hu; msp@reper-portugal.be; vida.skomina@gov.si; maiija.skytta@formin.fi; MARRERO MARTIN, Saulo <Saulo.Marrero@reper.maec.es>; LIGNEREUX Bastien <bastien.lignereux@dgtrésor.gouv.fr>; Elo Madiste <Elo.Madiste@mfa.ee>; Paul-Josef.RZEPA-STARK@bmeia.gv.at; Lenka.Mikulikova@mzv.cz; frantisek.bonk@mfsr.sk; nnd@fm.gov.lv; Maksoń Mariusz <Mariusz.Makson@msz.gov.pl>; blaine.camilleri.1@gov.mt; Johan Lindqvist <johan.lindqvist@gov.se>; Sintija Ozola <Sintija.Ozola@mfa.gov.lv>; Ioana Roxana IONESCU <ioana.ionescu@rpro.eu>

Cc: Lone Lau-Jensen <llj@skm.dk>

Subject: DK question / VAT (C-501/19, UCMR-ADA)

Good morning colleagues,

I hope you – and you administration at home – can find the time to give a short reply to a few questions in relation to the following judgment from the ECJ on 21 January 2021 in C-501/19, UCMR-ADA:

“Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/88/EU of 7 December 2010, must be interpreted as meaning that a holder of copyright in musical works supplies services for consideration to the end user, a performance

organiser, where the latter is authorised, by a non-exclusive licence, to perform those works for a public audience in return for the payment of remuneration collected by an appointed collective management organisation which acts in its own name but on behalf of that copyright holder;

Article 28 of Directive 2006/112/EC, as amended by Directive 2010/88, must be interpreted as meaning that a collective management organisation which collects, in its own name but on behalf of holders of copyright in musical works, royalties due to them in consideration for the authorisation for the public performance of their protected works, acts as a 'taxable person' within the meaning of that provision and is therefore deemed to have received the services in question from those rights holders before providing them to the end user itself. In such a case, that organisation is required to issue invoices in its own name to the end user containing the royalties collected from the latter, including value added tax (VAT). The copyright holders are, in turn, required to issue to the collective management organisation invoices including VAT for the services supplied in respect of the royalties received."

In other words, the judgment states that giving licence to copyrights is a supply for consideration and therefore taxable if no specific derogation for exemption can be used – for example the standstill provision in the directive 2006/112/EC, Annex X, Part B, no. 2.

Questions for consideration:

- a) Have you always seen licensing to copyright as a taxable supply (no matter who is the supplier), or have you seen it as being outside the scope of the VAT rules, or have you used the standstill provision for the artists (Annex X, Part B) to exempt collective management organisations?
- b) It is necessary for you to amend your national rules to comply with the ruling? If yes, can you in short explain in what way and if you have already done so?

Background: In Denmark we use the standstill in Annex X, Part B, no. 2, for the artists and have up until the judgment in C-501/19, UCMR-ADA considered giving licence to copyrights as not being service for consideration. We are in the process of changing our national VAT rules to comply with the judgment and are in the process of determining the proper VAT treatment of collective management organisations when they give license to copyrights.

We would very much appreciate to receive a short answer to these questions before the 28. January 2022.

Thank you very much in advance.

Kind regards,
Kristina

KRISTINA ELLEGAARD RASMUSSEN / KRELRA@UM.DK

Fiscal Attaché

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