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VAT and charging electric vehicles

The Court of Justice of the European Union (CJEU) recently decided that the charging of electric vehicles must be seen as a single complex supply of goods.

The Court of Justice of the European Union (**CJEU**) recently decided that the charging of electric vehicles which includes the supply of electricity and various adjacent services must be seen as a single complex supply of goods (P. in W., Case C-282/22, 20 April 2023).

Background

P. in W. planned to install and operate electric vehicle recharging stations. In the context of this activity, P. in W. would provide the following services to its customers: access to recharging devices, supply of electricity, technical support, and IT platform/support for booking chargers and reviewing charging history. P. in W. would charge one single price for all the services.

P. in W. requested confirmation from their local VAT authorities that the transaction would constitute a supply of services for VAT purposes. However, the local VAT authorities took the view that the supply of electricity was the principal supply within the activity, and the various IT/support services supplied by P. in W. were ancillary to the main supply of electricity. Following a local lawsuit initiated by P. in W., a question was referred to the CJEU about the nature of the transaction to be carried out by P. in W., specifically, whether this transaction encompassing supply of electricity and various services constitutes a supply of goods or of services for VAT purposes.

Whether a transaction is a supply of goods or a supply of services within the meaning of VAT law is particularly relevant for defining the taxable event and determining the place of supply. It is important to note in this context that the supply of electricity constitutes a supply of goods for VAT purposes and is subject to specific VAT provisions.

CJEU judgment

The CJEU ruled that the charging of electric vehicles constitutes a single complex supply composed of:

- the supply of electricity, constituting the characteristic and predominant element of the charging of electric vehicles;

- various support services, such as granting access to the recharging devices, technical support services or IT services, which constitute a means of better enjoying the supply of electricity or are necessary for the supply of electricity, and should therefore be considered as ancillary to the main supply of electricity.

Since the predominant element of the charging of electric vehicles is the supply of electricity, the whole transaction (including additional support services) constitutes a supply of goods and is subject to one single VAT treatment applicable to supplies of goods.

Comments

This decision confirming that charging of electric vehicles is a single supply with the core element being the supply of electricity is in line with Working paper no. 969 of the EU Commission VAT Committee (13 May 2019) on this topic.

The decision in this case examines the position where one single service provider is involved in a local supply chain. It does not provide any additional explanations for other electric vehicle charging business models, in particular those involving two types of suppliers: the charge point operator owning or renting the charging stations and an e-mobility operator offering supplies to customers. Nor does it cover cross-border supplies and the related VAT treatment. Nonetheless, it is a first step towards clarifying the VAT rules applicable to transactions relating to charging electric vehicles.

Developments and further clarifications from the CJEU in this area should be closely monitored as another case on charging electric vehicles has recently been referred to the CJEU (C-60/23).

Our VAT team is at your disposal for any questions in this respect_

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