

ECJ Preliminary Ruling Request (VAT): *Latvijas Informācijas un komunikācijas tehnoloģijas asociācija* (Case C-87/23) – Administratīvā Apgabaltiesa Submits Referral on VAT Treatment of Implementation of State Aid Schemes by Non-Profit Organization

15 May 2023

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On 15 May 2023, a preliminary ruling request, lodged on 15 February 2023, was published in the Official Journal of the European Union. Through this request, the Administratīvā Apgabaltiesa (Regional Administrative Court, Latvia) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case *Biedrība 'Latvijas Informācijas un komunikācijas tehnoloģijas asociācija' v. Valsts ieņēmumu dienests* (Case C-87/23) on whether a non-profit organization that implements State aid schemes financed by the European Regional Development Fund but does not actually supply the training services under the State aid schemes can be treated as (i) a taxable person carrying on an economic activity; and (ii) a supplier of services, even when the services are acquired from another economic operator. If the non-profit organization were to be considered a supplier of services, the referring court asks clarifications on the appropriate taxable amount of the supply, considering that the non-profit organization issued tax invoices to the aid recipients in which only 30% of the cost of the service was included.

The Administratīvā Apgabaltiesa requested the ECJ to answer the following questions:

"(1) Must Article 9(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [VAT Directive (2006/112)] be interpreted as meaning that a not-for-profit organisation whose activity is aimed at implementing State aid schemes financed by the European Regional Development Fund is to be treated as a taxable person who carries out an economic activity?

(2) Must Article 28 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [[VAT Directive \(2006/112\)](#)] be interpreted as meaning that an association which does not actually supply training services is nevertheless to be equated with a supplier of services where the services were acquired from another economic operator in order to ensure the implementation of a State aid project financed by the European Regional Development Fund?

(3) Pursuant to Article 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [[VAT Directive \(2006/112\)](#)], if a supplier of services receives only partial consideration from the recipient of the service for the service supplied (30 %) but the remaining cost of the service is covered by an aid payment from the European Regional Development Fund, is the taxable consideration the total amount received by the supplier of services from both the recipient of the service and a third party in the form of an aid payment?"

Latvia; European Union - ECJ Preliminary Ruling Request (VAT): Latvijas Informācijas un komunikācijas tehnoloģijas asociācija (Case C-87/23) – Administratīvā Apgabaltiesa Submits Referral on VAT Treatment of Implementation of State Aid Schemes by Non-Profit Organization (15 May 2023), News IBFD.

Exported / Printed on 10 Mar. 2024 by hkermadi@deloitte.lu.