



KMLZ VAT NEWSLETTER

VAT treatment of vouchers harmonized

1. Background

With regard to telecommunications, broadcasting and electronically supplied services, new rules on the place of supply have been applicable since 1 January 2015. The majority of issued and transferred vouchers are prepaid phone cards. However, the VAT treatment of vouchers has not been sufficiently regulated in the VAT Directive and not been harmonized. Thus, with respect to the supply of vouchers, mismatches can occur between Member States as well as distortion of competition and double or non-taxation. To this end, it is vital to introduce specific rules, which apply to the VAT treatment of vouchers.

2. Content of the Directive (EU) 2016/1065

The Directive (EU) 2016/1065 contains definitions of 'voucher', 'single-purpose voucher' and 'multi-purpose voucher', as well as specific rules concerning the VAT treatment of vouchers.

New Directive regarding vouchers

After many years of discussion, on 1 July 2016 the Directive (EU) 2016/1065 regarding the VAT treatment of vouchers was finally published. The Directive introduces new definitions such as 'single-purpose voucher' and 'multi-purpose voucher'. Furthermore, the Directive stipulates the criteria for cases where the issue and transfer of vouchers are subject to VAT. The Member States must adopt this Directive in their national laws by 31 December 2018.

2.1 Definitions

In the Directive, the term **voucher** is defined, for the first time, on a community law level:

"Voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument".

This definition and thus the Directive does not refer to vouchers only entitling the holder to a discount upon the purchase of goods or services. It is decisive that the voucher is carrying the right to receive the mentioned goods or services.

Furthermore, the Directive distinguishes between 'single-purchase voucher' and 'multi-purpose voucher'. With respect to the single-purpose voucher, the place of supply



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with regard to the supply of goods or services to which the voucher relates, as well as the VAT due on those goods or services, are already known at the time the voucher is issued. If these criteria are not met, the voucher is regarded as a multi-purpose voucher.

2.2 Transfer of vouchers

It is important to distinguish whether a single-purpose voucher or a multi-purpose voucher is given as regards the question of the VAT treatment of the transfer of the voucher. The transfer of a multi-purpose voucher is not subject to VAT. In this respect, only the subsequent actual handing over of the goods or the actual provision of the services, in return for a multi-purpose voucher, is subject to VAT.

In contrast, the transfer of a single-purpose voucher is already regarded as a supply of goods or services at the point in time when the voucher is transferred. The actual handing over of the goods or the actual provision of the services is not regarded as an independent taxable transaction. Thus, the sale of a single-purpose voucher already triggers a taxable transaction, even in the case where a voucher is not redeemed, i.e. the supply of goods or services mentioned in the voucher is actually not carried out.

2.3 Acting as an agent

If an agent acts in the name of another taxable person when transferring a single-purpose voucher, the transfer is regarded as a supply of goods or services made by the other taxable person in whose name the agent is acting. Thus, the agent is providing distribution or promotional services.

In cases where the agent acts in his own name but on behalf of another taxable person, that other taxable person is deemed to have carried out the supply of goods or services to the agent. In this case, the agent is part of the actual supply of goods or services.

Where a transfer of a multi-purpose voucher is made by a taxable person other than the taxable person carrying out the supply of goods or services, for which the voucher is accepted as consideration or part of the consideration, the taxable person who transfers the voucher is regarded as carrying out distribution or promotional services, which are subject to VAT.

2.4 Taxable amount

Special rules have to be considered regarding the determination of the taxable amount for the supply of goods or services in respect of a multi-purposes voucher. In general, the consideration paid for the voucher is decisive. If such information is not available, the monetary value indicated on the multi-purpose voucher itself or in related documentation has to be considered.

3. Future developments

The new regulations regarding vouchers apply for all vouchers issued after 31 December 2018. Thus, the Member States have until this date to implement this Directive into their national laws. As a consequence, it is necessary to amend the German VAT Act, as well as the German VAT Circular, since they currently do not distinguish between single-purpose vouchers and multi-purpose vouchers.