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DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
VAT and other turnover taxes

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Mr Michael Altmann
EasyBook24.de
By email only:
m.altmann@easybook24.de

Subject: Value added tax on ebooks in Germany due to the European VAT policy

Dear Mr Altmann,

Thank you for your e-mail of 3 December to Commissioner Šemeta, regarding Value added tax (VAT) on e-books in Germany. I have been asked, as Head of Unit responsible for VAT and other turnover taxes, to reply on his behalf.

In the VAT legislation currently in force¹, the definition of digitised e-books differs from hard-copy printed books and the place of their taxation is also different. In principle, the place of taxation of a supply of goods, such as printed books, is the place where the goods are located at the time when the supply takes place. Whereas services (including e-books) supplied electronically to final consumers within the EU by an EU established supplier are subject to VAT in the Member State of establishment of the supplier.

Member States are required to apply a standard rate of VAT of at least 15% to all supplies of goods and services. They may opt to apply one or two reduced rates to some or all of a list of goods and services set out in Annex III to the VAT Directive which contains the supply of books on any physical means of support.

However, electronically supplied services, including supplies of e-books, are specifically excluded from the scope of the reduced VAT rate. Because of their place of taxation, giving Member States the option to apply reduced rates to e-publications would create a situation of unfair competition against those suppliers located in Member States which apply the standard VAT rate. It would create the potential for the relocation of business activities simply to benefit from the reduced VAT rate, and therefore the EU VAT system would not be neutral.

¹ [Council Directive 2006/112/EC](#) of 28 November 2006 on the common system of VAT (the VAT Directive) - (OJ L 347, 11.12.2006, p.1)

For your information, the concept of books on 'all physical means of support' has been examined in the VAT Committee in its 92nd meeting on 7-8 December 2010². It adopted the following guideline:

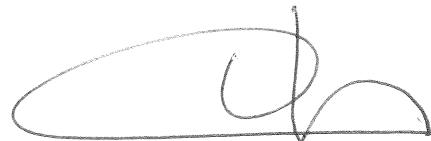
"The VAT Committee unanimously confirms that the concept of "books on all physical means of support" mentioned in category 6 of Annex III of the VAT Directive following the adoption of Directive 2009/47/EC only covers traditional books printed on paper, as well as the content of books on physical means of support such as cassettes, diskettes, CDs, DVDs, CD-ROMs, USB memory sticks, etc. that predominantly reproduces the same information content as printed books.

The VAT Committee also unanimously confirms that the supply of books in electronic format, usually called "E-books" (e.g.: in PDF files) or virtual books, which have to be downloaded from a Web site to be viewed on a desktop computer, laptop, Smartphone, e-book reader or any other reading system, as well as the supply of on-line newspapers and on-line periodicals, does not fall within the scope of category 6 of Annex III of the VAT Directive. The supply of e-books as well as the supply of on-line newspapers and on-line periodicals qualifies as electronically supplied services to which the reduced rates shall not apply according to the second subparagraph of Article 98(2) of the VAT Directive."

In its Communication adopted on 6 December 2011 on the future of VAT³, the Commission has suggested means for a way forward to achieve a simpler, more robust and efficient VAT system adapted to the single market. In the guiding principles for the review of the VAT rates, the Commission recognised that the challenge of convergence between the on-line and physical environments needs to be addressed. Meanwhile, the current VAT legislation needs to be respected. The application of VAT reduced rates on e-books is thus not in line with the current EU law. Therefore, the Commission has already sent letters of formal notice, the first step of infringement procedures, to France and Luxembourg concerning their reduced VAT rates applied on e-books⁴.

As announced in the above mentioned Communication, a public consultation, seeking the opinion of stakeholders⁵, was launched on 8 October in this context. The issue of equal treatment of on-line and off-line products is addressed in the public consultation. At this stage of the process, the Commission is unable to comment on the content of future proposals that may result from the evaluation.

Yours sincerely,



Donato RAPONI
Head of Unit

² Unanimously adopted guidelines which are thus not subject to any legislative discussion are available on the following link:

http://ec.europa.eu/taxation_customs/taxation/vat/key_documents/vat_committee/index_en.htm

³ [COM\(2011\) 851 final](#)

⁴ press release available on the following link:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/740&format=HTML&aged=0&language=EN&guiLanguage=en>

⁵ http://ec.europa.eu/taxation_customs/common/consultations/tax/2012_vat_rates_en.htm