

C_2022424EN.01002501.xml

7.11.2022

EN

Official Journal of the European Union

C 424/25

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 25 July 2022 — Deco Proteste — Editores, Lda. v Autoridade Tributária e Aduaneira (Tax and Customs Administration)

(Case C-505/22)

(2022/C 424/32)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: Deco Proteste — Editores, Lda.

Defendant: Autoridade Tributária e Aduaneira (Tax and Customs Administration)

Questions referred

1.

Where new subscribers are given a gift (a ‘gadget’) when they subscribe to periodicals, must the making of that gift be considered, for the purposes of Article 16 of the VAT Directive, (1) to be:

(a)

a supply of goods made free of charge, separate from the transaction consisting of subscribing to the periodicals,

or

(b)

part of a single transaction for consideration,

or

(c)

part of a commercial package, comprising a principal transaction (the subscription to the

magazine) and an ancillary transaction (making the gift), in which the ancillary transaction is considered to be a supply for consideration instrumental to the subscription to the magazine?

2.

If the answer to the first question is that the making of the gift is a supply of goods made free of charge, is the setting of an annual ceiling on the overall value of gifts of 0.5 % of the turnover of the taxable person in the preceding year (in addition to the limit on the unitary value) compatible with the concept of 'the application of goods ... as gifts of small value' referred to in the second paragraph of Article 16 of the VAT Directive?

3.

If the preceding question is answered in the affirmative, must that proportion of 0.5 % of the turnover of the taxable person in the preceding year be considered to be so low that it renders the second paragraph of Article 16 of the VAT Directive ineffective?

4.

Having regard also to the purposes for which it was established, does that ceiling of 0.5 % of the turnover of the taxable person in the preceding year infringe the principles of neutrality, of equal treatment or non-discrimination and of proportionality?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).