

VAT briefing – EU case impacts financial services companies

The CJEU issues decision in Skandia America Corporation USA case which will impact on the existing international structures of financial services companies that avail of VAT grouping provisions

The Court of Justice of the European Union (CJEU) has issued its judgment in the case of Skandia America Corporation USA (C-7/13). The judgment has major implications in terms of the potential for significant additional VAT costs for financial services companies who provide cross border intra-company transactions and avail of VAT grouping provisions.

Background

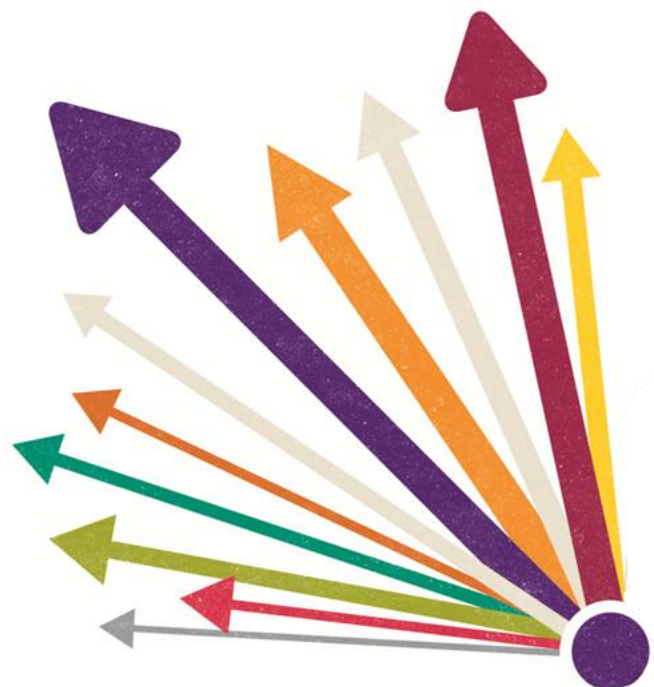
The Swedish branch of Skandia America Corporation USA ('Skandia') consumed software and software maintenance services acquired by its head office in the US. The Swedish branch is a member of a Swedish VAT group and the branch used the services acquired from its US head office to transact with its fellow group members. It was held in the earlier case of FCE Bank (C-210/04), with which the Swedish authorities agreed, that transactions between a head office and its branch are not supplies for VAT purposes.

The Swedish tax authorities took the view that Swedish VAT arose on the supply of the services by Skandia and made an assessment for output VAT. In May 2014, the Advocate

General opined that that the decision of the Swedish tax authorities to accept the branch as a member of the Swedish VAT group, without treating the entire company as a member, is incompatible with the VAT grouping provisions.

Decision by the CJEU

The CJEU has held that there is a supply of services from an overseas head office to a branch where the branch forms part of a VAT group. In addition, the Court has held that the VAT group as the purchaser of the services is liable for the VAT payable on the receipt of the services from the overseas head office.



Impact of this decision

The impact of this decision should be considered by international financial services companies with branch structures that avail of VAT grouping provisions.

We await with interest the reaction of the Irish Revenue to this decision and in particular its potential impact on the financial services sector.

Contact us

Should you have any queries with respect to the impact of the Skandia decision on your business in or in relation to any other VAT matter please do not hesitate to contact any member of the Indirect Tax Team.

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