

**Court of Justice of the EU holds that
intra-group transfer pricing
adjustments are not a separate supply
of services and therefore not subject
to VAT**

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Transfer pricing adjustments subject to VAT?

CJEU: intra-group transfer pricing adjustments are not a separate supply of services and therefore not subject to VAT

Executive summary

On 13 May 2026, the Court of Justice of the European Union (CJEU) released its decision in the Portuguese referral case C-603/24 (*Stellantis Portugal*), holding that transfer pricing adjustments agreed to within a group to ensure a target profit margin, implemented via credit/debit notes and calculated using costs including vehicle repairs, do not constitute consideration for a supply of services and therefore are not subject to value-added tax (VAT).

With this decision the CJEU has ruled in the latest in a line of transfer pricing (TP) cases considering the VAT treatment of transfer pricing adjustments.

The case examines whether intra-group transfer pricing adjustments, used to ensure a distributor achieved a target profit margin and calculated partly by reference to vehicle repair costs, constitute consideration for a separate supply of services.

In this case, the adjustments were made to align profitability and were based on multiple cost drivers, with no contractual obligation for the distributor to provide repair services.

The CJEU held that there is not a separate supply of services unless there is a direct link between a specific service and the payment, arising from a legal relationship with reciprocal obligations and that any link to services here was at most indirect.

Although not stated explicitly in the judgment, it seems to imply that the transfer pricing

adjustments take effect as adjustments to the purchase price of the cars.

Businesses should consider reviewing the VAT treatment of their transfer pricing adjustments in light of this and other recent case law.

Background

Stellantis Portugal (Stellantis), formerly General Motors Portugal, Lda (GMP), is a company operating in the motor vehicle trade as part of an economic group engaged in the manufacture and distribution of vehicles (SUPs) and parts and accessories (P&A).

The group is made up of companies performing the following functions:

- The original equipment manufacturers (OEMs) manufacture the products and/or supply them to national sales companies or national sales organizations (NSCs/NSOs).
- The NSCs/NSOs distribute those products in a market that has been predefined in geographical terms.

Stellantis acted as a distributor, purchasing and selling cars to the local market. It incurred various costs (e.g., warranty, repairs) that were reflected in an adjustment to the manufacturer's sales price to ensure that Stellantis achieves a pre-agreed profit margin. The Portuguese tax authorities argued that the adjustment constituted payment for Stellantis' provision of services to the manufacturer, including repairs that took place in Portugal and therefore would be subject to Portuguese VAT.

The question referred to the CJEU was whether there was a separate supply of services subject to VAT.

Judgment

The CJEU held that the only legal relationship in place was a 2004 agreement. The object of that agreement was to establish the transfer prices of the vehicles sold. The adjustments to those prices were intended to ensure that Stellantis obtained a profit margin determined in advance. The CJEU found that none of the agreement clauses indicated that there was a legal relationship between GMP and the OEMs that would have created an obligation by GMP to repair, for remuneration, the vehicles it purchased from those OEMs. Moreover, the CJEU said there were no unwritten facts supporting the existence of such a legal relationship.

The CJEU further held that based on the case *Arcomet Towercranes (C-726/23)*, the uncertain nature of the existence of remuneration is enough to break the direct link between the service provided and the remuneration received. In order for such a link to be established, remuneration must not be gratuitous, random or difficult to quantify.

According to the CJEU, the adjustments in this case were calculated by taking into account not only the costs relating to the repairs carried out by the independent dealers and invoiced by them to GMP, but also the operating costs. Further, those adjustments could give rise not only to credit notes, but also to debit notes, i.e., a payment in either direction. In addition, the various costs that GMP incurred in the distribution of those vehicles were taken into account only to ensure that the profit margin previously determined was met, with the result that, once that margin had been achieved, GMP was not reimbursed by the OEMs for all those costs, in particular the vehicle repair costs.

Based on these facts, the CJEU held that the link between any repair services for the vehicles that GMP provided to the OEMs and the adjustments to the transfer prices of those vehicles is at most indirect, and therefore the payment could not be consideration for a supply of services. Addressing the Portuguese Government's argument that, by bearing the costs of repairing those vehicles, GMP acted on behalf of the OEMs and intermediated itself in a supply of services that dealers provided to those OEMs, the CJEU held that there was no evidence that GMP was involved in such a supply of services or had acted on behalf of others.

In conclusion, the CJEU held that the transfer pricing adjustments agreed within a group to ensure a target profit margin, implemented via credit/debit notes and calculated using costs including vehicle repairs, do not constitute consideration for a supply of services.

The CJEU reasoned that there was no supply of services absent a legal relationship between the companies involving reciprocal obligations under which the acquiring company supplied services to the selling company and the payment (in the form of an adjustment) had a direct link with the provision of these services.

Implications

The VAT consequences of transfer pricing adjustments are highly topical, with a number of such cases recently before the Court. The facts in this case are very different from those in *Arcomet*, in which the transfer pricing adjustment was the entire consideration and could have gone in either direction. In the *Stellantis Portugal* case, there was a sale of a car for a price that can only be finally determined at the end of the year. However, it appeared that there would always be a price paid for the car so that the issue of "negative consideration" would not arise.

Although the CJEU's decision in *Stellantis Portugal* is limited to the transfer pricing adjustments not constituting or including consideration for repair services, the court made no express finding that they are adjustments to the initial purchase price of the car, although that is the clear implication of the judgment.

Once again, the CJEU has stuck close to the specific question asked and has not provided a definitive statement as to what the adjustments are, focusing instead on what they are not. However, it could be inferred that the CJEU did see the adjustments (evidenced by credit and debit notes) as changes in consideration for the purchase of the vehicles.

The impact of transfer pricing on VAT issues is undoubtedly significant and is likely to continue to raise questions of interpretation. Any business processing such adjustments should carefully review its arrangements (VAT treatment, contracts, systems and invoicing) together with other recent litigation in this area to make sure that their VAT team is aware of any transfer pricing adjustments that are made.

The above is based on our interpretation of current tax legislation and case law published to date. This Indirect Tax Alert provides general information with no pretence of completeness, and it is not a tax advice.

Information

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