



Recent VAT developments

Webinar – 13 November 2025

Introduction



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Agenda

Time	Topic	Speaker
16.00-16.05	Introduction	Madeleine Merkx
16.05-16.15	Vouchers – the AG opinion in Lyko operations	Milja Bormann-Bakker
16.15-16.25	VAT and platforms – the XYRality case	Madeleine Merkx
16.25-16.35	Introduction to EFS' programs	Milja Bormann-Bakker and Rakesh Ghirah
16.35-16.50	Transfer pricing and VAT	Rakesh Ghirah
16.50-17.00	Q&A	Moderated by Madeleine Merkx



Vouchers – the AG opinion in Lyko operations

Milja Bormann-Bakker LL.M.

Case C-426/24 Skatteverket v Lyko Operations

AG Opinion of AG Kokott delivered on 11 September 2025

Case Overview

Case C-426/24 Lyko Operations AB (AG Kokott, 11 Sept 2025):

Examines whether Lyko's loyalty points qualify as vouchers under the VAT Directive, focusing on Articles 30a and 30b of the VAT Directive

The present case concerns a customer loyalty program, in which customers collect, with their purchases, points which they can use in a subsequent purchase. The result is that the points lead to the next purchase becoming 'cheaper' for the customer, either in that the points can be deducted from the price or in that, as in the present case, additional goods are purchased from a reward shop. The decisive question, according to the referring court, is whether the issue of such points must be treated as a voucher within the meaning of the VAT Directive.

Facts of the case

Lyko sells beauty products and runs a loyalty program: Customers earn points with purchases, redeemable for goods in a “points shop” during future purchases.

Points:

- Only redeemable with a new purchase.
- Linked to monthly purchases; oldest points used first.
- Not convertible to cash, non-transferable, expire after two years.
- Obligate Lyko to deliver goods when redeemed.
- Points are not available for a mix of points and cash.

What was the legal discussion?

Lyko's Position: Points meet Article 30a's definition of vouchers, even if not paid for directly.

Tax Authority's Position: Points are not vouchers—they lack monetary value and are not transferable.

Key Questions:

1. Must points be paid for and have a monetary value to be considered vouchers?
2. Do loyalty points constitute vouchers under Article 30a?
3. If yes, how is the taxable amount determined when points are redeemed?

What was real issue?

Core Question: How should unredeemed points be treated under VAT law?

- If points are multi-purpose vouchers (MPVs), VAT is only due when redeemed.
- If points are discounts, VAT is paid in full on initial purchase; redemption reduces tax only when used.
- Companies prefer MPVs for favorable VAT timing.

Definition of Multi-Purpose Voucher (MPV)

Two Conditions (Article 30a):

- Goods/supplier must be apparent from the voucher or terms.
- There must be an obligation to accept the voucher as consideration for goods.

Distinction: Vouchers vs. discounts—vouchers obligate supply upon presentation; discounts only reduce price.

Uncertainty: MPVs can refer to unspecified rewards; VAT applies only upon redemption.

Conclusion: Points in Lyko's program do not meet the definition of a voucher—they are discounts.

Treatment of unredeemed points

- MPVs: If acquired for consideration but never redeemed, no VAT is charged.
- Lyko's Points: Not a discount until redeemed; only redemption triggers VAT reduction.
- Final Ruling: Lyko's points are not vouchers under Article 30a, but a discount mechanism.

Key take-aways

Lyko's loyalty points: Earned with purchases, redeemable for goods, not cash.

Are these points “vouchers” for VAT purposes?

Voucher requirements:

- Must obligate supplier to accept as payment for goods.
- Must specify goods/supplier.

Discounts only reduce price, no obligation to supply goods for points alone.

If points are vouchers: VAT due only when redeemed. If points are discounts: VAT paid on initial purchase; redemption reduces taxable amount.

Conclusion AG:

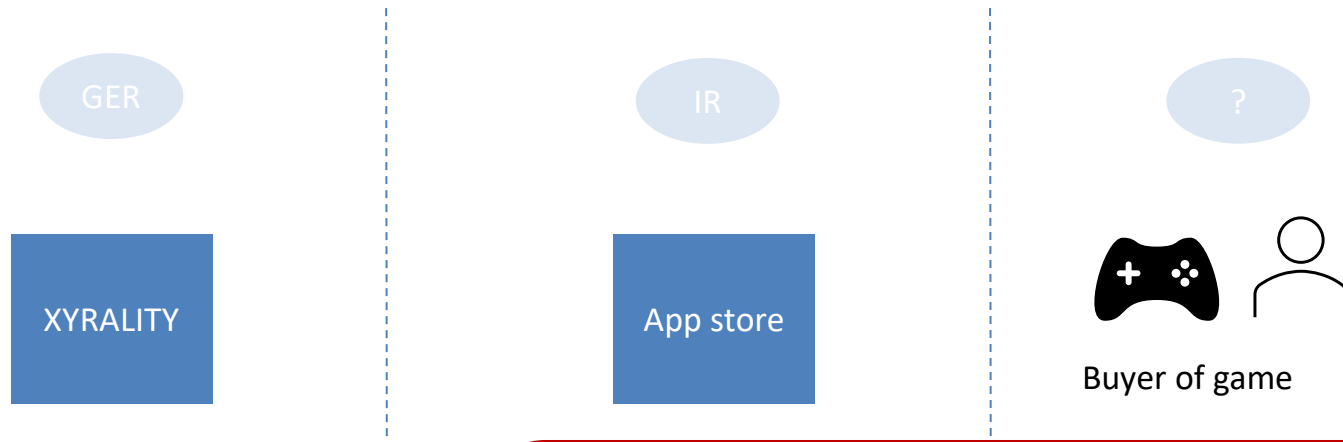
Lyko's points do not qualify as vouchers under the VAT Directive. Points are a discount, not a voucher; VAT reduction only upon redemption.



VAT and platforms – the XYRality case

Prof. Madeleine Merkx

Facts



Tax period 2012-2014

Relevant circumstances:

- According to the agreement, the developer (XYRALITY) is the seller, and the products are presented and made available through the app store, for which the app store receives a commission.
- Payment transaction takes place via the app store.
- When presented in the app store, the developer's name was displayed with each game.
- For in-app purchases, the developer is not mentioned as the service provider. Only the app store logo and certain links are visible.
- After purchase, the end customer receives an order confirmation by email with the app store logo and a statement that the purchase was made from the developer.

Questions raised

1. Is Article 28 of the VAT Directive applicable?
2. If yes, is the place of supply of the service performed by the developer to the marketplace determined under Article 44 of the VAT Directive (Ireland) or under Article 45 of the VAT Directive (Germany)?
3. If the developer does not perform services subject to VAT in Germany: does a tax liability arise in Germany under Article 203 of the VAT Directive because the app store indicated the developer as the service provider in the order confirmations and stated German VAT?

CJEU judgement – first question

- In order for Article 28 of the VAT Directive to apply, there must be an agency in performance of which the agent acts, on behalf of the principal, in the provision of services
- Even if, despite the complexity of the chains of transactions the end customer is, in certain cases, in a position to know the existence of the agency and the identity of the principal, those circumstances are not sufficient in themselves to exclude that the taxable person, taking part in the supply of services, acts in his or her own name but on behalf of another person
- Article 9a VAT IR, which entered into force on 1 January 2015, is not applicable *ratione temporis* but, in so far as that provision explains and clarifies a concept appearing in the VAT Dir and applicable since its inception, it should nonetheless be taken into account

CJEU judgement – second question

- It does not follow either from Article 28 or from any other provision of the VAT Directive that the place of supply of services should be determined by way of derogation from the rules laid down in Chapter 3 of Title V of that directive.
- Accordingly, the place of that supply of services must be determined in accordance with Article 44 of that directive.

CJEU judgement – third question

- Xyrality authorised X to designate it as the supplier in the order confirmations
- The services at issue in the main proceedings were supplied not to taxable persons for the purposes of their business, but to non-taxable persons → art. 203 VAT Dir not applicable

What can we learn from this case

- Not decisive whether the end consumer is aware of the agency and identity of the principal, but the powers enjoyed by the platform are relevant
- Undermines the current practice of established platforms that indicate in their general terms and conditions that it is not them but the underlying supplier providing the service and that they do not act in their own name, but in the name and on behalf of the underlying supplier?
- Judgement regarding art. 203 VAT Dir contradicts CJEU Finanzamt Österreich case → overruled by this case?



Introduction to EFS' programs

VAT

Upcoming programs Erasmus Fiscal Studies

Post-Masters (in Dutch)

- Indirect taxes (9 September – 2 December 2025)
- International and European Tax law (2 March – 5 June)

Post-Masters (in English)

- EU VAT (4 March – 9 October 2026)
- EU Tax Law (15 January – 11 June 2026)
- EU Customs Law

Top-Level Seminars (in English)

- EU VAT
- EU Customs Law
- Transfer Pricing

Upcoming programmes Erasmus Fiscal Studies

For 2026 the following webinars are planned:

- 16 April 2026 Customs
- 18 June 2026 VAT
- 8 October 2026 Customs
- 12 November 2026 VAT

Conferences

- Upcoming conference: 12 February 2026

Aligning Value — The Intersection of Transfer Pricing, VAT and Customs

For more information and registration, visit the official website:

erasmusfiscalstudies.nl

EU Top-level seminar EU VAT:

Recent Developments and Outlook

- **A three-day seminar (in English)**
- 25 top international indirect tax specialists from tax advisory services, legal practice, the judiciary, government bodies, tax authorities and academia will discuss the VAT implications of a wide range of topical issues, including the measures recently implemented or soon to be implemented across the EU. We guarantee in-depth. Interactive sessions bridging theory and practice and an excellent opportunity for international networking
- The fee covers all seminar materials, lunches on the campus, a dinner at a wonderful and acclaimed restaurant, and a walking dinner during a boat trip on the river Maas in the port of Rotterdam
- *Our agenda:*
- **Day One**
 - Update European Commission on future of VAT
 - E-invoicing and digital reporting – state of play
 - Trends in VAT audits
 - Navigating the risks of the use of fraud detection systems
- **Day Two**
 - Holding companies and intercompany transactions
 - The trust-and-distrust dynamic between EU tax administrations in the VAT e-commerce context
 - How to determine the status of your customer (B2B or B2C)?
 - Expert Panel Session: the impact of AI on the work of the VAT specialist
- **Day Three**
 - Functioning of the CJEU (ECJ and Court)
 - The Court of Justice and VAT: recent judgments, opinions and pending cases.

Overview of the Post Master EU VAT

- Combined campus and online training programme about EU VAT from March through April and October 2026
- In English
- Suitable for:
 - Tax professional in the tax consultancy practice, the business world, academia, the judiciary, other legal professions, ministries or the Tax Authorities
 - Tax professionals working in an EU Member State or dealing with VAT in EU Member States
 - 2-9 years' experience in VAT
- Paper and defence to obtain certificate

Programme topics

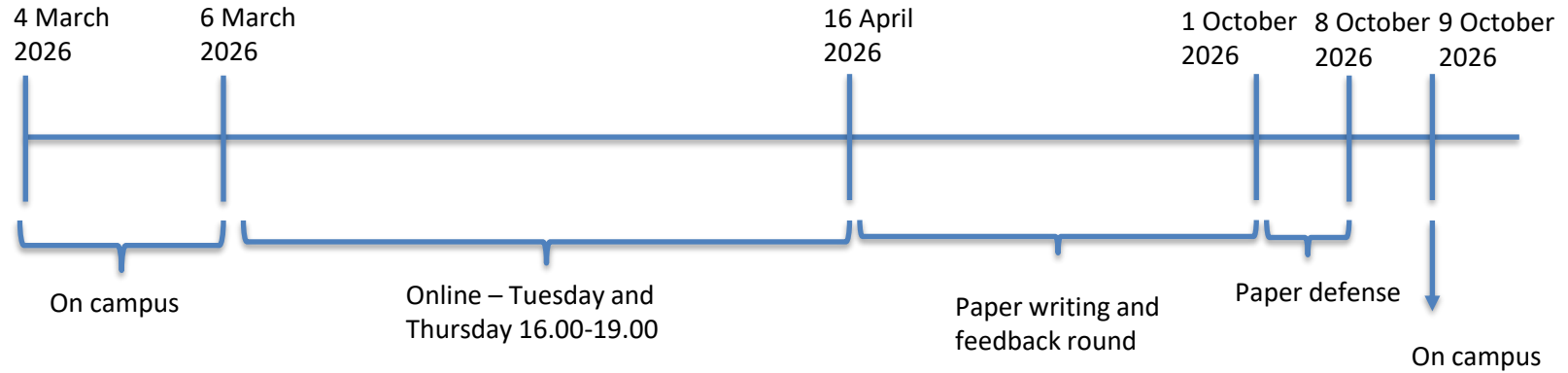
On Campus

- Taxable person and taxable supply
- Taxable amount including vouchers
- Exemptions
- Deduction
- International trade
- Panel session – VAT and entrepreneur strategies in the EU
- Case study

Online

- EU legislative process, functioning of the CJEU, EU principles and charter of fundamental rights
- Supply chain and VAT
- Business restructuring and VAT
- VAT in a digital environment
- Indirect tax assurance
- Responsibility and fair taxation
- Administrative cooperation in the field of VAT

Timetable



Overview of lecturers

Marco Gomes Vale Viga, David Hummel (CJEU), Karoline Spies, Pieter Bouwhuis, Jeroen Bijl, Bart Heijnen, Erwan Loquet, Tina Ehrke-Rabel, Marta Papis-Almansa, Marja Hokkanen, John Gruson, Milja Bormann-Bakker, Madeleine Merkx, Walter de Wit, Martijn Schippers, Ilona van den Eijnde, Trudy Perie, Dimitri Koepprianov, Maarten de Wilde, Eleonor Kristoffersson, Lisette van der Hel-van Dijk, Menno Griffioen, Oscar Smeets, Suzanne den Breems and Han Kogels

Overview of the Dutch Post Master Indirecte Belastingen

- Twelve weeks of training in VAT on Tuesday from September-December 2026
- In Dutch
- Suitable for:
 - Tax professional in the tax consultancy practice, the business world, academia, the judiciary, other legal professions, ministries or the Tax Authorities
 - 2-9 years experience in VAT
- Paper and defence to obtain certificate

Topics of the Dutch program (in Dutch)

1. Algemene beginselen van EU-recht/ misbruik van recht en fraude
2. Belastingplicht/publiekrechtelijke lichamen
3. Concernproblematiek I en II
4. Maatstaf van heffing/Btw-aspecten van vouchers
5. Aftrek van voorbelasting I en II
6. Intracommunautaire goederenhandel/Plaats van dienst en vaste inrichting
7. Douanerechten, heffingen bij invoer/onroerend goed
8. Vrijstellingen: medisch, onderwijs, sociaal-cultureel I en II
9. Financiële vrijstellingen I en II
10. Internationale en nationale ontwikkelingen in het fiscale toezicht I en II
11. Wetgevingsproces/Btw en technologie
12. Controle en boete, fraude en strafrecht/Btw ondernemingsstrategieën in Europa

For more information

- Post Master EU VAT: [Post-Master EU VAT \(in English\) - EFS, Erasmus University Rotterdam](#)
- Post Master Indirecte Belastingen (dates for 2025 coming soon): [Post-Master Indirecte Belastingen - EFS, Erasmus University Rotterdam](#)
- Top Level Seminar EU VAT (program for 2026 coming soon): [Top Level Seminar 'EU VAT: Recent Developments and Outlook' \(in English\) - EFS, Erasmus University Rotterdam](#)



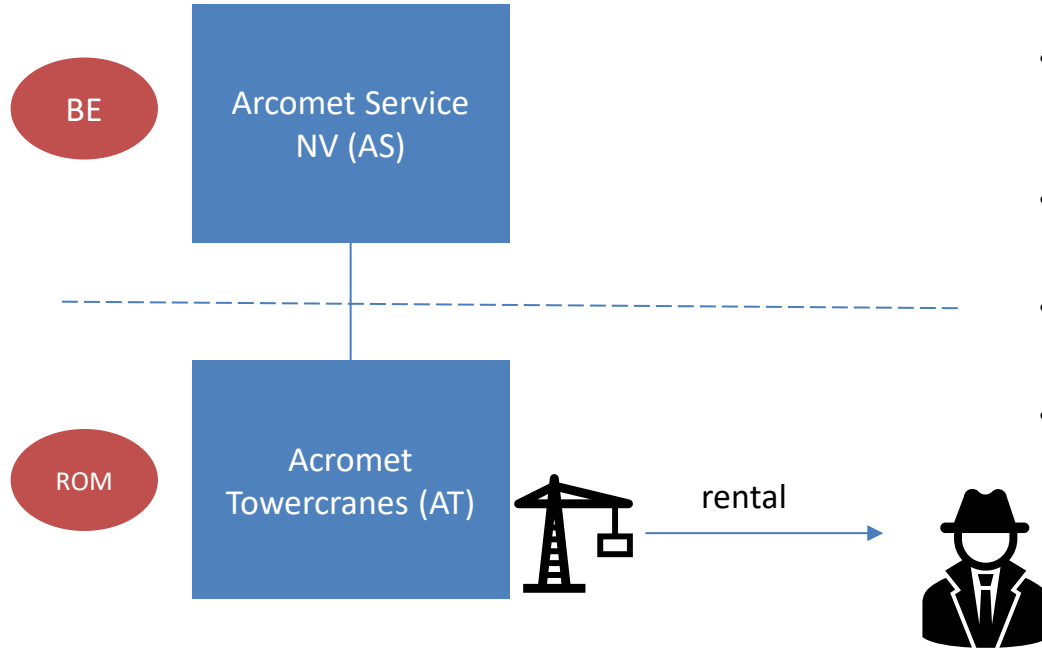
VAT & TP

Rakesh Ghirah LL.M.

What is transfer pricing?

- The pricing of goods, services, or intangibles transferred between **related entities**.
- Determines how **profits** are allocated among different subsidiaries or branches.
 - The mechanism is designed for direct tax purposes.
- “at arm’s length principle”: transactions should be priced as if between independent parties.
- If a transaction is not conducted at arm’s length, an appropriate adjustment is required.
 - This adjustment can be voluntary or;
 - Made by the tax authorities.
- **What impact do these adjustments have on indirect taxes?**

CJEU C-726/23: Arcomet Towercranes



- Transfer pricing agreement securing operating profit margin to be adjusted at the end of the year:
- operating profit margin AT lower than
-0,71% AT invoices AS for the difference
- operating profit margin between -0,71% and + 2,74% no entitlement to remuneration
- operating profit margin more than + 2,74% AS invoices AT for the difference
- In 2011, 2012 and 2013 surplus profit for which AS issues three equalization invoices

CJEU C-726/23: Arcomet towercranes

- The contractual arrangements between Arcomet Belgium and Arcomet Romania indicate a **legal relationship** between the supplier and the recipient.
- The payments made by Arcomet Romania under the contract of 24 January 2012 constituted the remuneration in respect of the activities carried out by Arcomet Belgium (**identifiable service**).
- Arcomet Romania obtained a **specific advantage** in return for the payments made.
 - The services provided by Arcomet Belgium had, in fact, an impact on Arcomet Romania's operating profit margin.
- Accordingly, the remuneration received constitutes the **actual consideration** for the service supplied to the recipient.

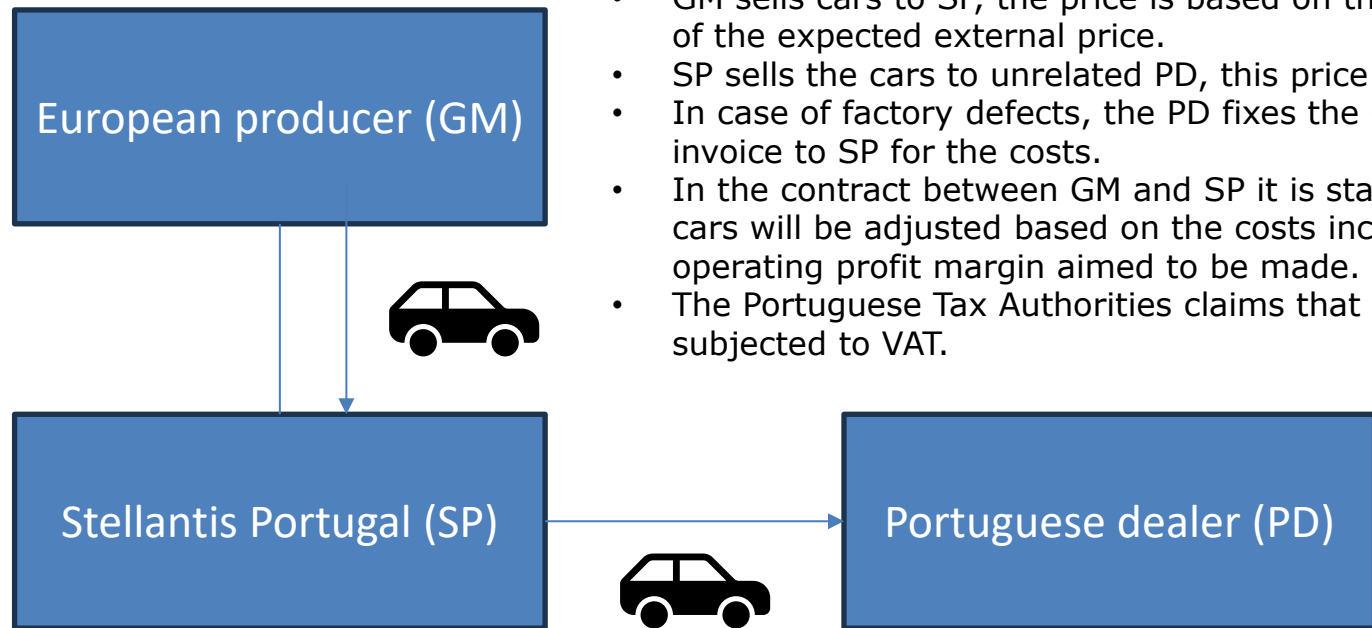
CJEU C-726/23: Arcomet towercranes

- Para. 48 “Fourthly, contrary to the submissions of Arcomet Romania before the Court, the situation provided for in the contract of 24 January 2012 in accordance with which, in the event of an operating profit margin of less than -0.71%, remuneration is payable by Arcomet Belgium to Arcomet Romania, is not, in any event, such as to break the direct link between the supply of services at issue and the consideration received.....”
- **But is the payment from Arcomet Belgium to Arcomet Romania subject to VAT?**

CJEU C-726/23: Arcomet towercranes

- **Legal relationship:**
 - Contractual agreement also is applicable in this situation
- **Identifiable service:**
 - Does Arcomet Romania supply a service to Arcomet Belgium? And does Arcomet Belgium receive a **specific advantage** from that service.
 - Contract: Arcomet Romania undertook to purchase and hold all the goods necessary for the exercise of its activity and to be responsible for the sale and rental of those goods and for the provision of services.
- **Actual consideration:**
 - CJEU: “the uncertain nature of the provision of any payment can break the direct link between the service provided to the recipient and any payment which may be received” (Tolsma, C-16/93 & Finanzamt X C-713/21)

Upcoming CJEU case C-603/24: Stellantis Portugal



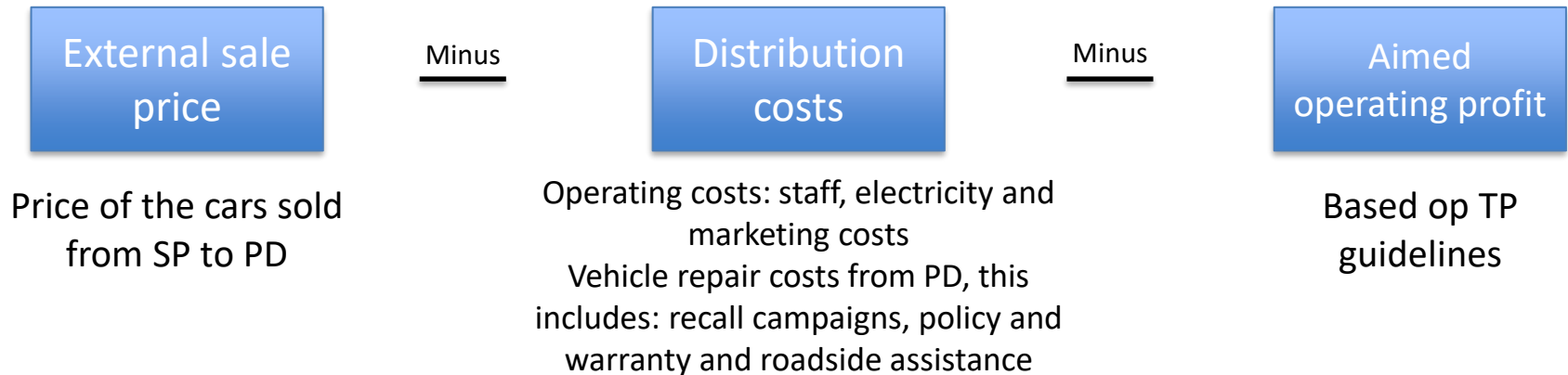
- GM and SP are part of the same group
- GM sells cars to SP, the price is based on the gross margin discount of the expected external price.
- SP sells the cars to unrelated PD, this price is the external price.
- In case of factory defects, the PD fixes the cars and sends an invoice to SP for the costs.
- In the contract between GM and SP it is stated that the prices of the cars will be adjusted based on the costs incurred by SP and an operating profit margin aimed to be made.
- The Portuguese Tax Authorities claims that this adjustment is subjected to VAT.

Upcoming CJEU case C-603/24: Stellantis Portugal

- The question is whether Article 2 of the Sixth VAT Directive (77/388/EEC), as it stood at the time, should be interpreted to mean that the definition of “supply of services for consideration” includes price adjustments for vehicles. Specifically, these are adjustments agreed in a contract between the parties to ensure a minimum profit margin, and documented through a credit or debit note issued to the applicant/appellant by European manufacturers of the General Motors group.
- **Does Stellantis Portugal perform a supply of services for consideration?**

Upcoming CJEU case C-603/24: Stellantis Portugal

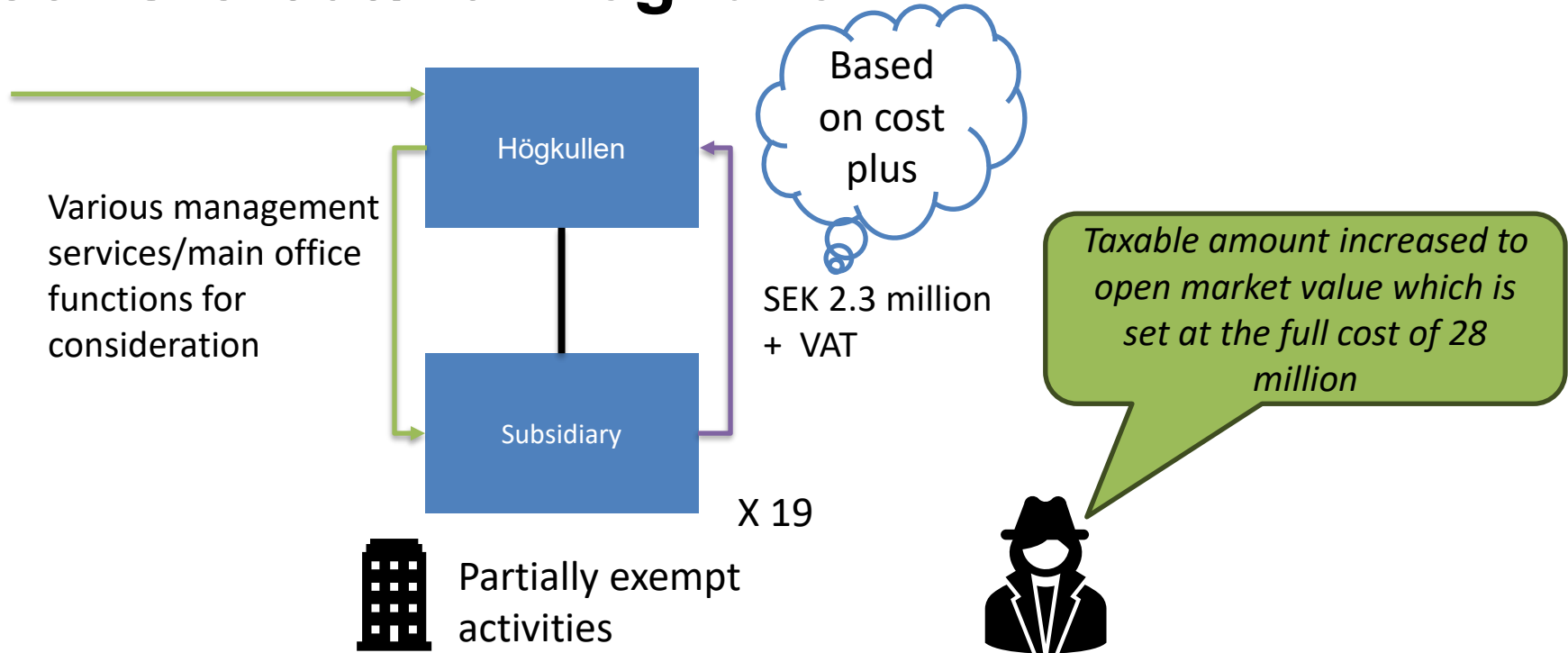
- The price adjustment is calculated in the following way



Upcoming CJEU case C-603/24: Stellantis Portugal

- **Legal relationship**
 - SP and GM have a contractual agreement.
- **Identifiable service:**
 - Can the activities of SP be regarded as an identifiable service?
 - Activities: staff, electricity, marketing costs and repair costs from PD.
 - If SP performs an identifiable service, does GM receive a **specific advantage**
- **Actual remuneration:**
 - Can the adjustment be seen as the actual remuneration for the supply of services performed?

CJEU C-808/23: Högkullen



CJEU C-808/23: Högkullen

- VAT Directive article 80(1)(a):
 - Member States may increase the taxable amount to the open market value when the following conditions apply:
 - The taxable amount is lower than the open market value;
 - The recipient of the supply does not have a full right of deduction;
 - The parties are related (to be defined by the Member State).
- The main question concerns how to define the open market value.
 - VAT Directive article 72(2): comparable transactions at arm's length, if no such transactions are available then the full costs of the taxable person providing the service.
 - **Swedish Tax Authorities:** no comparable transaction because the service is 1 management service performed by the shareholder
 - **Högkullen:** services provided by a parent company to its subsidiaries must be assessed individually and equivalent services can be acquired freely on the market.
- CJEU: *“Articles 72 and 80 of Council Directive 2006/112/EC must be interpreted as precluding the services provided by a parent company to its subsidiaries in the context of the active management of those subsidiaries from being, in all situations, regarded by the tax authority as constituting **a single supply** which precludes the open market value of those services from being determined using the comparison method laid down in the first paragraph of Article 72 of that directive.”*



Q&A

Thank you for your attention