



Court of Justice of the European Union: Bitcoin exchanges are VAT-exempt

Transactions by which traditional currencies are exchanged for units of “Bitcoin” or vice versa are exempt from VAT. This follows the ruling of the Court of Justice of the European Union (CJEU) in *Skatteverket v David Hedqvist* C-264/14 (22 October 2015).

The case was brought by Swedish national Mr Hedqvist. Mr Hedqvist wanted to establish a company to purchase units of Bitcoin and resell these through a website. He therefore sought a decision as to whether VAT would be payable on the purchase and sale of “Bitcoin” arising from these transactions.

The CJEU confirmed that the VAT exemption for transactions concerning currency, bank notes and coins used as legal tender applies to certain “Bitcoin” exchange transactions. The CJEU considered only transactions in which “Bitcoin” are exchanged for traditional currencies. Whilst there remains some uncertainty as to whether transactions in which “Bitcoin” are exchanged for another virtual currency would also be exempt, one would expect similar principles to be applied.

In coming to its decision, the CJEU reasoned that the VAT exemption applicable to currency exchange is intended to “alleviate the difficulties connected with determining the taxable amount and the amount of VAT deductible which arise in the context of financial transactions”. It considered that these difficulties could also arise in transactions involving virtual currencies, such as “Bitcoin”, and that to refuse virtual currencies the benefit of the exemption would “deprive it of part of its effect”. In reaching this view, the Court was willing to accept that “Bitcoin” was a means of payment and that “Bitcoin” exchanges can be financial transactions.

This decision is important both because it recognises “Bitcoin” as a currency (at least for VAT purposes) and because it helps to remove a potential barrier to locating Bitcoin exchanges in the EU. While HMRC has taken the approach of exempting “Bitcoin” exchange transactions from VAT for some time, the CJEU’s judgment should lead to greater certainty and consistency as to the VAT treatment of virtual and non-traditional currencies across the EU. It remains necessary to consider the location and identity of all parties to a Bitcoin exchange transaction when establishing the tax consequences but the VAT analysis should now be clearer. In addition, whether Bitcoin will receive regulatory compliance approval from national banks, which many argue is the next step for the virtual currency, remains to be seen.

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