

When gift is no gift 2/42/23

It's usual for sellers (and service providers) to make offers such as "buy a product, get another one for free" or "each buyer gets a gift". For VAT purposes, sellers are not usually concerned about the concept of a gift as long as it's up to EUR 15, but they do become more careful if gifts exceed this threshold. The restriction on low-value gifts in the Latvian VAT Act is per individual and per year, placing a certain burden on the taxable person to identify the recipient and keep such a record. However, the Act's definition of a low-value gift contains a disclaimer that this does not apply to goods or services made available free of charge if their costs qualify as advertising or "representation" expenses. The State Revenue Service does not tend to evaluate the seller's advertising slogans literally but will assess a supply according to its economic substance. This article explores the latest ruling from the Court of Justice of the European Union (CJEU) on how to assess gifts for VAT purposes.

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