Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

26 May 2016*

(Reference for a preliminary ruling — Common system of value added tax — Directive 2006/112/EC — Exemption — Article 135(1)(d) — Transactions concerning payments and transfers — Meaning — Purchase of cinema tickets by telephone or via the Internet — Payment by debit card or credit card — 'Card handling' services))

In Case C-607/14,

REQUEST for a preliminary ruling under Article 267 TFEU, from the First-tier Tribunal (Tax Chamber), United Kingdom, made by decision of 22 December 2014, received at the Court on 29 December 2014, in the proceedings

Bookit Ltd

v

Commissioners for Her Majesty's Revenue and Customs,

THE COURT (Second Chamber),

composed of M. Ilešič, President of the Chamber, C. Toader, A. Rosas, A. Prechal and E. Jarašiūnas (Rapporteur), Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: L. Hewlett, Principal Administrator,

having regard to the written procedure and further to the hearing on 16 December 2015,

after considering the observations submitted on behalf of:

— Bookit Ltd, by N. Gardner and S. Mardell, Solicitors, and by Z. Yang, Barrister, and A. Hitchmough QC,

— the United Kingdom Government, by M. Holt, acting as Agent, and by K. Beal, QC,

— the Greek Government, by S. Charitaki and A. Magrippi, acting as Agents,

— the Portuguese Government, by L. Inez Fernandes, A. Cunha and R. Campos Laires, acting as Agents,

— the European Commission, by L. Lozano Palacios and R. Lyal, acting as Agents,

* Language of the case: English.

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling relates to the interpretation of Article 135(1)(d) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1, 'the VAT Directive').

2 The request has been made in proceedings between Bookit Ltd and the Commissioners for Her Majesty's Revenue and Customs ('the tax authority') concerning a refusal to grant an exemption from value added tax ('VAT') to certain supplies of services made by Bookit.

Legal context

EU law

3 Article 2(1)(c) of the VAT Directive makes 'the supply of services for consideration within the territory of a Member State by a taxable person acting as such' subject to VAT.

4 The provisions of Article 135(1)(b) to (g) of that directive set out, in essentially identical wording, the exemptions that were previously laid down in Article 13B(d), points 1 to 6 respectively, of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment (OJ 1977 L 145, p. 1).

5 Article 135(1)(d) of the VAT Directive provides:

'Member States shall exempt the following transactions:

...

(d) transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection; ...'

United Kingdom law

6 Section 31(1) of the Value Added Tax Act 1994 ('VATA 1994') provides that 'A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 9'.

7 Schedule 9 sets out a series of goods and services that qualify for exemption from VAT. Group 5 of that schedule covers 'Finance'. It provides for the exemption of the following services:

'...

1. The issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money.

...

5. The provision of intermediary services in relation to any transaction comprised in item 1, 2, 3, 4 or 6 (whether or not any such transaction is finally concluded) by a person acting in an intermediary capacity.'

...'

The dispute in the main proceedings and the questions referred for a preliminary ruling

8 Bookit is a company wholly owned by Odeon Cinemas Holding Limited ('Odeon'), which owns and operates a chain of cinemas in the United Kingdom. Bookit's stated business activity consists of processing debit and credit card payments ('card handling') for customers of the Odeon group of companies. Bookit also operates a call centre on Odeon's behalf. Bookit's entire income is derived from transactions involving Odeon group companies and from the Odeon cinema customers.

9 By a decision of 24 December 2009 the tax authority determined that supplies made by Bookit, in consideration of payments described to customers buying Odeon cinema tickets as 'card handling fees', are not supplies of services that are exempt within Group 5 of Schedule 9 to VATA 1994. Bookit brought an appeal against that decision before the First-tier Tribunal (Tax Chamber).

10 The referring court states that Odeon cinema ticket sales are made either at counters and automatic ticket machines at cinemas, or by telephone, via a telephone call centre, or via the Internet.

11 Counter sales are made by Odeon employees. With respect to those sales, as for those made at automatic ticket machines at cinemas, Bookit provides card handling services to Odeon, but charges neither Odeon nor customers any fee for those services. Telephone and Internet sales are made by Bookit, acting as agent for Odeon. With respect to those sales, the purchase of tickets by debit card or credit card involves the payment, by the customer, of the price of the ticket and also the card handling fee. In the relevant periods, the fee varied between GBP 0.65 and 0.75 (approximately EUR 0.82 and 0.95) per transaction.

12 The referring court states that, throughout the relevant period, the debit card and credit card payments received by Bookit from customers buying tickets for the Odeon cinemas were processed by a bank known as the 'merchant acquirer', under a merchant services agreement. That agreement provided that the merchant acquirer should credit Bookit's account with the total sum of the transactions in respect of which the relevant card transaction data was presented to it. The agreement also provided that Bookit or, as applicable, Odeon was obliged, first, to obtain, from the merchant acquirer, an authorisation code — issued by the bank of the card holder, that bank being the 'card issuer', which signifies, in essence, that the card is valid and that there are funds in the account — before making any sale and, second, to ensure that that code was included in a file, known as 'the settlement file', which includes the card transaction data, and which has to be transmitted to the merchant acquirer at the end of the day with a view to completing the payments.

13 Odeon and Bookit also entered into a separate services contract with DataCash Limited, under which DataCash was to provide 'standard bank card services'. Those services included obtaining authorisation codes for and on behalf of Bookit, by lodging the required authorisation requests with the merchant acquirer and receiving the authorisation responses, and storing the authorisations in a batch file, recording whether the sales were made by Odeon in the cinemas or by Bookit remotely, for the purposes of settlement with the merchant acquirer.

14 The referring court explains that, in practice, the purchase of a cinema ticket by telephone or via the Internet includes the following stages. First, the customer provides Bookit with the relevant data concerning the debit card or the credit card that he wants to use, such as the name and address of the cardholder, the card number and the security number on the back of the card, data which Bookit

sends, via DataCash, to the merchant acquirer. The latter transmits the data to the card issuer which, if the data is accepted, ring fences the money and transmits an authorisation code to the merchant acquirer. The merchant acquirer, via DataCash, transmits that code to Bookit which, on receipt, examines whether the requested cinema seats are still available. If so, the tickets are allocated to the customer and the transaction is completed by Bookit, which receives from Odeon confirmation of the reservation stating that an amount in consideration for the ordered tickets, together with an amount payable to Bookit as a booking fee, has been or will be charged to the customer's card.

15 Next, as part of each cinema's 'end of day' process, Bookit transmits to DataCash the payment information that it has collated, in the form of settlement files that include, for each transaction, the card payment data, including the card issuer's authorisation code; DataCash then sends to the merchant acquirer a batch file comprising all the transactions entered into in the course of the day, for transmission to the various card issuers, which triggers payment by the card issuers to the merchant acquirer. The merchant acquirer then credits Bookit's bank account with the funds concerned. Finally, Bookit transfers to Odeon the ticket sale revenue and retains the card handling fees.

16 The referring court states that Bookit's role thus involves, in part, a supply of a service as an agent of Odeon in selling tickets and, in part, the supply to the purchasers of those tickets of card handling services, consisting in obtaining card information from the customer, transmitting that information to the merchant acquirer, obtaining an authorisation code from the merchant acquirer and retransmitting the card information, including the authorisation code, to the merchant acquirer as part of the settlement process.

17 The referring court adds, first, that, without the settlement files, the merchant acquirer would not know whether transactions had been completed. Second, Bookit would not be able to process card payments without the services of a merchant acquirer, since it cannot provide the card data directly to the card issuers in order to obtain authorisation codes. Third, Bookit also requires the services of DataCash so that the card data is formatted into a form recognised by the payment system. That court states that the parties to the dispute before it accept that the intervention of DataCash has no effect on the nature of the service provided by Bookit. Fourth, that court observes that the relationship of Odeon, Bookit and their customers is described on Odeon's website and is of the opinion that, throughout the period concerned, those customers knew that they were entering into a separate agreement with Bookit for the supply of card handling services, in consideration of payment of a fee.

18 Before the referring court, Bookit argues that the card handling service that it provides to the purchasers of Odeon cinema tickets constitutes a supply of services that is exempted under Group 5, item 1, of Schedule 9 to VATA 1994 and Article 135(1)(d) of the VAT Directive, since the effect of the transmission to the merchant acquirer of the card data, including authorisation codes, is that funds are transferred to Bookit's account with the merchant acquirer.

19 The tax authority, on the other hand, contends that Bookit is not engaged at any time in transferring funds on behalf of Odeon's customers within the meaning of the Court's case-law, since that transfer is carried out by the merchant acquirer in conjunction with the card issuers. The services provided by Bookit are therefore subject to standard rate VAT.

20 The referring court states that, in common with other courts in the United Kingdom, it is experiencing difficulty in determining what kinds of activity are covered by the exemption laid down in Article 135(1)(d) of the VAT Directive.

21 In those circumstances, the First-tier Tribunal (Tax Chamber) decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

‘(1) With regard to the exemption from VAT in Article 135(l)(d) of [the VAT Directive] as interpreted by the Court of Justice in the judgment of 5 June 1997 in *SDC* (C-2/95, EU:C:1997:278), what are the relevant principles to be applied in determining whether or not a “debit and credit card handling service” (such as the service that is supplied in this case) has “the effect of transferring funds and entail[s] changes in the legal and financial situation” within the meaning of paragraph 66 of that judgment?

(2) As a matter of principle, what factors distinguish (a) a service which consists in the provision of financial information without which a payment would not be made but which do not fall within the exemption [as in the judgment of 28 July 2011, *Nordea Pankki Suomi* (C-350/10, EU:C:2011:532)], from (b) a data handling service which functionally has the effect of transferring funds and which the Court of Justice has identified as therefore being capable of falling within the exemption [as in the judgment of 5 June 1997 in *SDC* (C-2/95, EU:C:1997:278) in paragraph 66]?

(3) In particular, and in the context of debit and credit card handling services:
(a) Does the exemption apply to such services which result in a transfer of funds but which do not include the task of making a debit to one account and a corresponding credit to another account?
(b) Does entitlement to the exemption depend on whether the service provider itself obtains authorisation codes directly from the cardholder’s bank, or alternatively obtains those codes via its merchant acquirer bank?’

Consideration of the questions referred for a preliminary ruling

Preliminary observations

22 The referring court bases its request for a preliminary ruling on the premise that the card handling service supplied by Bookit, when a person who wishes to visit an Odeon cinema purchases, via Bookit, a ticket which that person pays for using a debit card or a credit card, constitutes the supply of a service that is distinct from and independent of the sale of that ticket.

23 The Court has however previously held that the additional charges invoiced by a provider of services to its customers, where the latter pay for those services by credit card, debit card, cheque or cash, over the counter at a bank or authorised payment agent acting on behalf of that service provider, do not constitute consideration for a supply of services that is distinct from and independent of the principal supply of services for which that payment is made (see, to that effect, the judgment of 2 December 2010, *Everything Everywhere*, C-276/09, EU:C:2010:730, paragraph 32).

24 In that regard, the Court held, first, that the fact that the principal service provider makes available to customers an infrastructure that enables them to pay the price for that service, inter alia by bank card, does not constitute, for those customers, an end in itself, and that that supposed supply of services, which those customers are unable to access separately from the use of the principal service, can have no interest for such customers that is independent of that principal service (see, to that effect, judgment of 2 December 2010, *Everything Everywhere*, C-276/09, EU:C:2010:730, paragraph 27).

25 The Court then added that the receipt of a payment and the handling of that payment are intrinsically linked to any supply of services provided for consideration, and that it is inherent in such a supply that the service provider should seek payment and make appropriate efforts to ensure that the customer can make effective payment in consideration for the service supplied, the Court holding that, in

principle, any method of payment for a supply of services involves the provider taking certain steps for the handling of the payment, even if the extent of those steps may vary from one method of payment to another (see, to that effect, judgment of 2 December 2010, *Everything Everywhere*, C-276/09, EU:C:2010:730, paragraph 28).

26 The Court stated, last, that the fact that a separate price for the alleged financial service is identified as such in the contract document and itemised separately in the invoices issued to customers is not of itself decisive, the Court holding that the fact that a single price is invoiced, or that separate prices were contractually stipulated, has no decisive significance for the purposes of determining whether it is necessary to find that there are two or more distinct transactions or only a single economic transaction (see, to that effect, judgment of 2 December 2010, *Everything Everywhere*, C-276/09, EU:C:2010:730, paragraph 29 and the case-law cited).

27 In accordance with the Court's settled case-law, it is for the national court to assess whether the material put before it discloses, having regard to the economic and commercial reality of the transactions concerned, the characteristics of a single transaction, the contractual structure of that transaction notwithstanding (see, to that effect, judgments of 21 February 2008, *Part Service*, C-425/06, EU:C:2008:108, paragraph 54, and of 20 June 2013, *Newey*, C-653/11, EU:C:2013:409, paragraphs 42 to 45) and taking into consideration all the circumstances in which that transaction takes place (see, to that effect, judgment of 2 December 2010, *Everything Everywhere*, C-276/09, EU:C:2010:730, paragraph 26 and the case-law cited).

28 In the light of the foregoing, it is for the referring court to determine whether, in the main proceedings, the card handling service provided by Bookit should be considered, for the purposes of the application of VAT, as a service that is ancillary to the sale of the cinema tickets concerned or as a service that is ancillary to another principal service that is supplied by Bookit to the purchasers of those tickets, which might be the remote reservation or purchase in advance of cinema tickets, and, consequently, as forming with that principal supply a single supply, with the result that that service should receive the same tax treatment as the principal supply (see, to that effect, judgments of 25 February 1999, *CPP*, C-349/96, EU:C:1999:93, paragraph 32, and of 16 April 2015, *Wojskowa Agencja Mieszkaniowa w Warszawie*, C-42/14, EU:C:2015:229, paragraph 31).

29 Subject to that reservation, the Court must, in this instance, undertake the interpretation of EU law requested by the referring court.

Consideration of the questions referred

30 By its questions, which can be examined together, the referring court seeks, in essence, to ascertain whether Article 135(1)(d) of the VAT Directive must be interpreted as meaning that the VAT exemption provided for therein applies to a 'card handling' service, such as that in the main proceedings, provided by a taxable person, the provider of that service, when an individual purchases, via that service provider, a cinema ticket, which the service provider sells in the name of and on behalf of another entity, and which the individual pays for by debit card or by credit card.

31 The order for reference indicates that that card handling service comprises, first, the provider of that service obtaining, from the purchaser, the data pertaining to the debit card or credit card that the purchaser wants to use and that provider transmitting that data to its merchant acquirer, which transmits the data to the card issuer. The next element of the service, when the card issuer, on receipt of that data, has confirmed to the merchant acquirer, by the transmission to it of an authorisation code, the validity of the card and the availability of the necessary funds, is the receipt of that code by the service provider, via its merchant acquirer, whereupon it can effect the sale. The final element of the service is the retransmission by the service provider to its merchant acquirer, at the end of the day, of a settlement file listing all the sales actually effected in the course of the day and containing

the relevant data pertaining to the payment cards used, including authorisation codes, to permit its retransmission, by the merchant acquirer, to the various card issuers concerned, who then make payments or transfers to that merchant acquirer, which transfers the funds concerned to the account of that service provider.

32 First, it must be observed that the provisions of Article 135(1)(b) to (g) of the VAT Directive reproduce, without any essential amendment, the exemptions which were previously laid down in Article 13B(d), points 1 to 6 respectively, of the Sixth Directive 77/388. The case-law relating to the latter provisions therefore remains of relevance for the interpretation of the equivalent provisions of the VAT Directive.

33 In accordance with the Court's settled case-law, the exemptions laid down in Article 135(1) of the VAT Directive constitute autonomous concepts of EU law whose purpose is to avoid divergences in the application of the VAT system as between one Member State and another (see, inter alia, judgments of 10 March 2011, *Skandinaviska Enskilda Banken*, C-540/09, EU:C:2011:137, paragraph 19 and the case-law cited, and of 22 October 2015, *Hedqvist*, C-264/14, EU:C:2015:718, paragraph 33 and the case-law cited).

34 It is also settled case-law that the terms used to specify those exemptions are to be interpreted strictly, since they constitute exceptions to the general principle that VAT is to be levied on all services supplied for consideration by a taxable person (see, inter alia, the judgment of 28 July 2011, *Nordea Pankki Suomi*, C-350/10, EU:C:2011:532, paragraph 23, and 22 October 2015, *Hedqvist*, C-264/14, EU:C:2015:718, paragraph 34 and the case-law cited).

35 In that context, it must be recalled that Article 135(1)(d) of the VAT Directive provides that the Member States are to exempt 'transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection'.

36 The transactions exempted under that provision are defined in terms of the nature of the services provided and not in terms of the person supplying or receiving the service. Accordingly, the exemption is not subject to the condition that the transactions be effected by a certain type of institution or legal person, where the transactions in question relate to the sphere of financial transactions (see judgment of 28 October 2010, *Axa UK*, C-175/09, EU:C:2010:646, paragraph 26 and the case-law cited).

37 In this case, it is common ground that only the exemption provided for in Article 135(1)(d) of the VAT Directive in favour of 'transactions ... concerning … payments [and] transfers' is capable of being of relevance to the main proceedings.

38 In that regard, the Court has previously held that a transfer is a transaction consisting in the execution of an order for the transfer of a sum of money from one bank account to another. It is characterised in particular by the fact that it involves a change in the legal and financial situation existing, on the one hand, between the person giving the order and the recipient and, on the other, between those parties and their respective banks; and, in some cases, between those banks. Moreover, the transaction which produces the change is solely the transfer of funds between accounts, irrespective of its cause. Thus, a transfer being only a means of transmitting funds, the functional aspects are decisive for the purpose of determining whether a transaction constitutes a transfer within the meaning of Article 135(1)(d) of the VAT Directive (see, to that effect, the judgments of 5 June 1997, *SDC*, C-2/95, EU:C:1997:278, paragraph 53, and of 28 July 2011, *Nordea Pankki Suomi*, C-350/10, EU:C:2011:532, paragraph 25).

39 Further, the wording of Article 135(1)(d) of the VAT Directive does not in principle preclude a transfer from being broken down into separate services which then constitute 'transactions concerning' transfers within the meaning of that provision (see, to that effect, judgment of 5 June 1997, *SDC*,

C-2/95, EU:C:1997:278, paragraph 64). While it is not inconceivable that the exemption at issue may extend to services which are not transfers per se, the fact remains that that exemption can relate only to transactions which form a distinct whole, fulfilling in effect the specific, essential functions of such transfers (see, to that effect, judgment of 5 June 1997, *SDC*, C-2/95, EU:C:1997:278, paragraphs 66 to 68).

40 It follows from the foregoing that, in order to be characterised as a transaction concerning transfers within the meaning of Article 135(1)(d) of the VAT Directive, the services at issue must, viewed broadly, form a distinct whole, fulfilling in effect the specific, essential functions of a transfer and, therefore, having the effect of transferring funds and entailing changes in the legal and financial situation. In that regard, a service exempted under the VAT Directive must be distinguished from the supply of a mere physical or technical service. To that end, it is relevant to examine, in particular, the extent of the liability of the supplier of services, in particular the question whether that liability is restricted to technical aspects or whether it extends to the specific, essential aspects of the transactions (see, to that effect, judgments of 5 June 1997, *SDC*, C-2/95, EU:C:1997:278, paragraph 66, and of 28 July 2011, *Nordea Pankki Suomi*, C-350/10, EU:C:2011:532, paragraph 24).

41 It must also be stated that, since the functional aspects are decisive to the determination of whether a transaction concerns a transfer for the purposes of Article 135(1)(d) of the VAT Directive, the test that makes it possible to distinguish a transaction that has the effect of transferring funds and bringing about changes in the legal and financial situation within the meaning of the case-law cited in paragraphs 38 to 40 of this judgment, which falls within the scope of the exemption concerned, from a transaction that does not have such effects and therefore, is outside its scope, is whether the transaction under consideration causes the actual or potential transfer of ownership of the funds concerned, or fulfils in effect the specific, essential functions of such a transfer (see, to that effect, judgment of 28 July 2011, *Nordea Pankki Suomi*, C-350/10, EU:C:2011:532, paragraph 33).

42 In that regard, while the fact that the service provider concerned may directly debit and/or credit itself an account, or again act by means of accounting entries in accounts belonging to the same account holder, allows, in principle, the conclusion that that condition is met and that the service under consideration is exempted (see, to that effect, judgment of 13 March 2014, *ATP PensionService*, C-464/12, EU:C:2014:139, paragraphs 80, 81 and 85), the mere fact that that service does not directly involve such a task does not however mean that the possibility of its being within the scope of the exemption at issue should be immediately ruled out, given that the interpretation described in paragraph 38 of this judgment does not presuppose any particular method for effecting transfers (see, to that effect, judgment of 13 March 2014, *ATP PensionService*, C-464/12, EU:C:2014:139, paragraph 80).

43 Further, according to the Court's settled case-law, the considerations relating to transactions concerning transfers are also applicable to transactions concerning payments (see, to that effect, judgments of 5 June 1997, *SDC*, C-2/95, EU:C:1997:278, paragraph 50, and of 28 July 2011, *Nordea Pankki Suomi*, C-350/10, EU:C:2011:532, paragraph 26).

44 In this case, it must be observed that, as is apparent from the description in paragraph 31 of this judgment, a card handling service, such as that at issue in the main proceedings, has the effect of leading to the execution of a payment or a transfer and such a service may be regarded as being essential to that execution, given that, as is stated in the order for reference, it is the transmission of the end of day settlement file, by the service provider to its merchant acquirer, that triggers the process of payment or transfer of the sums concerned from the card issuers to that merchant acquirer and, ultimately, to the account of that service provider, and that the only payments or transfers that are in fact executed are those for which the necessary information is included in that file.

45 However, first, since Article 135(1)(d) of the VAT Directive must be interpreted strictly, the mere fact that a service is essential for completing an exempt transaction does not warrant the conclusion that that service is exempted (see, to that effect, judgments of 5 June 1997, *SDC*, C-2/95, EU:C:1997:278, paragraph 65, and of 28 July 2011, *Nordea Pankki Suomi*, C-350/10, EU:C:2011:532, paragraph 31).

46 Second, the obtaining by the provider of that service from the purchaser of the data pertaining to the payment card that the purchaser wishes to use; the transmission of that data by that service provider to its merchant acquirer; the receipt, by that service provider, of the authorisation code provided by the card issuer; the retransmission by that service provider to its merchant acquirer of an end of day settlement file including inter alia the authorisation codes relating to the sales effected, cannot, taken individually or together, be regarded as performing a specific and essential function of a payment or transfer transaction for the purposes of Article 135(1)(d) of the VAT Directive.

47 There is no dispute, given that description, that the provider of such a service does not itself directly debit or credit the accounts concerned, and that it does not act by accounting entries, and that it does not even instruct such debit or credit, since it is the purchaser who, by using his or her payment card to make a purchase, decides that his or her account will be debited in favour of a third party.

48 Moreover, as stated by the European Commission at the hearing, the settlement files submitted by a trader who is a service provider to its merchant acquirer are nothing other than a request to receive a payment electronically. The purpose of the retransmission of such an end of day file is thus merely to inform the payment system concerned that a previously authorised sale has in fact been made. That retransmission cannot therefore be regarded as executing the payment or the transfer concerned or as fulfilling in effect the specific and essential functions. The fact that such a file is confined to producing the data and codes pertaining to sales that have actually been made, and therefore to sales where the availability of the ticket desired by the customer has been confirmed, is of no significance in that regard, since that fact is inherent in the very nature of such a file.

49 It must further be stated that, as is apparent from the order for reference, the authorisation code — which the service provider does no more than request, receive and retransmit, and over the provision of which it therefore has no control — contained in that file represents only an authorisation, to proceed with the sale, which the card issuer concerned, via the merchant acquirer, supplies to the service provider. There is again no question of a specific function that is essential to the transfer of ownership of the funds concerned. Accordingly, whether such a code is obtained by the provider of that service directly from the card issuer, or rather via its merchant acquirer, is of no relevance to the determination of whether a card handling service, such as that at issue in the main proceedings, does or does not fall within the scope of the exemption at issue.

50 Third, it is not apparent from the order for reference that the provider of such a service assumes any liability as regards the achievement of the changes in the legal and financial situation that are characteristic of the existence of an exempted transaction of transfer or payment under Article 135(1)(d) of the VAT Directive, and therefore as regards the specific and essential functions of the process of transfer of funds that takes place, between the card issuers and the merchant acquirer and then from the merchant acquirer to the account of that service provider. In particular, while the provider of a card handling service may, as stated by Bookit in its written observations, have obligations to the purchaser and, possibly, to the entity on whose behalf it makes the sale, to ensure due performance of that sale and the card handling service associated therewith, and therefore to ensure the satisfactory completion of that service, that liability does not mean that the service provider assumes any liability for the achievement of the changes in the legal and financial situation that are characteristic of an exempted transaction of payment or transfer.

51 It follows from all the foregoing that the provider of a card handling service, such as that at issue in the main proceedings, plays no specific and essential part in achieving the changes in the legal and financial situation that are the result of a transfer of ownership of the funds concerned and that,

according to the Court's case-law, can be said to be characteristic of a transaction concerning payments or transfers that is exempted under Article 135(1)(d) of the VAT Directive, but does no more than provide technical and administrative assistance for the obtaining of information and the communication of that information to its merchant acquirer, and to receive, by the same means, the communication of information that enables it to effect a sale and to receive the corresponding funds.

52 In that regard, it must be recalled that the fact that such a service is provided by electronic means, and in particular the fact that the transmission of the settlement file entails the automatic triggering of the payments or transfers under consideration, cannot alter the nature of the service provided and, therefore, does not affect the application of the exemption at issue (see, to that effect, judgment of 5 June 1997, *SDC*, C-2/95, EU:C:1997:278, paragraph 37).

53 A card handling service, such as that at issue in the main proceedings, which accordingly consists, in essence, in an exchange of information between a trader and its merchant acquirer, with a view to receiving payment for a product or service offered for sale, cannot fall within the scope of the exemption provided in Article 135(1)(d) of the VAT Directive for transactions concerning payments and transfers.

54 It may be added, first, that such a service cannot be deemed to be, by its nature, a financial transaction for the purposes of Article 135(1)(b) to (g) of the VAT Directive, unless the view is taken that any trader that takes steps necessary for the receipt of payment by debit card or credit card is undertaking a financial transaction for the purpose of those provisions, which would render that concept meaningless and would be contrary to the requirement that VAT exemptions must be interpreted strictly.

55 Second, if the exemption provided for in Article 135(1)(d) of the VAT Directive were to be granted to a card handling service, such as that at issue in the main proceedings, that would be at odds with the purpose of the exemption for financial transactions, which is to alleviate the difficulties connected with determining the tax base and the amount of VAT deductible and to avoid an increase in the cost of consumer credit (judgment of 19 April 2007, *Velvet & Steel Immobilien*, C-455/05, EU:C:2007:232, paragraph 24, and order of 14 May 2008, *Tiercé Ladbroke and Derby*, C-231/07 and C-232/07, not published, EU:C:2007:332, paragraph 24).

56 If a card handling service, such as that at issue in the main proceedings, is subject to VAT, there are no such difficulties. In particular, the tax base, which corresponds to the consideration received in exchange for that service, namely the fee charged to the purchaser of the ticket for that service, can readily be determined, and such a transaction does not involve the provision of any credit to the purchaser by the provider of that service. Such a service cannot therefore properly be the subject of an exemption under Article 135(1)(d) of the VAT Directive.

57 In the light of all the foregoing, the answer to the questions referred is that Article 135(1)(d) of the VAT Directive must be interpreted as meaning that the exemption from VAT provided there for transactions concerning payments and transfers is not applicable to a 'card handling' service, such as that at issue in the main proceedings, supplied by a taxable person, the provider of that service, where an individual purchases, via that service provider, a cinema ticket which the service provider sells for and on behalf of another entity, and which the individual pays for by debit card or by credit card.

Costs

58 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Second Chamber) hereby rules:

Article 135(1)(d) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the exemption from value added tax provided for therein for transactions concerning payments and transfers is not applicable to a 'card handling' service, such as that at issue in the main proceedings, supplied by a taxable person, the provider of that service, where an individual purchases, via that service provider, a cinema ticket which the service provider sells for and on behalf of another entity, and which the individual pays for by debit card or by credit card.

[Signatures]