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TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value added tax

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VALUE ADDED TAX COMMITTEE
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)
WORKING PAPER NO 892

CASE LAW

ISSUES ARISING FROM RECENT JUDGMENTS OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

ORIGIN:	**Commission**
REFERENCES:	**Articles 2(1), 135(1)(e) and (d)**
SUBJECT:	**CJEU Case C-264/14 *Hedqvist*: Bitcoin**

1. INTRODUCTION

The VAT treatment of Bitcoin – and, by extension, that of other forms of digital currencies[1] – has been discussed twice in the VAT Committee: firstly, at the initiative of the UK delegation during the 101st meeting of the VAT Committee in October 2014; and yet again at the initiative of the Commission during the 104th meeting of the VAT Committee in June 2015. On both occasions, the respective Working papers[2] were produced by the Commission services.

Given the need to reach a common and consistent position on the VAT treatment of Bitcoin and similar digital currencies, the Commission services would like to revisit this issue in the light of the recent judgment of the Court of Justice of the European Union (CJEU) in the case *Hedqvist*[3].

2. THE CIRCUMSTANCES OF CASE C-264/14

The case at hand involved a person in Sweden, Mr Hedqvist, wishing to provide through his company services consisting of the exchange of traditional currency[4] for bitcoins and vice versa.

The transactions envisaged would be carried out electronically via the company's website. That company would purchase units of Bitcoin directly from private individuals and companies, or from an international exchange site and resell the units on such an exchange site, or store them. It would also sell such units to private individuals or to companies placing an order on its website.

Once the client accepted the price in Swedish crowns offered by the company and a payment was received, the sold units of Bitcoin would be sent automatically to the Bitcoin address indicated. The bitcoins sold by the company would either be those that it would have purchased directly on the exchange site after the client had placed his order, or those that the company already had in stock. The price proposed by the company to clients would be based on the current price on a particular exchange site, to which a certain percentage would be added. The difference between the purchase price and the sale price would constitute the company's earnings. It would not charge any other fees.

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1 The analysis focuses on Bitcoin, given that this is today the best-known form of virtual currency, but it is valid to any other form of virtual currency with the same characteristics. It does not, however, extend to virtual currencies whose use is restricted to online computer gaming environments and social networks. For further information on the concept of virtual currencies, see European Central Bank (ECB): *Virtual currency schemes – a further analysis* (February 2015). https://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemesen.pdf

2 Working papers No 811 and No 854.

3 CJEU, judgment of 22 October 2015 in case C-264/14 *Hedqvist*.

4 The concept "traditional currency" is used by the CJEU for referring to currencies used as legal tender, such as Euro or Swedish Crowns, as opposed to virtual currencies.

3. THE QUESTIONS REFERRED TO THE CJEU

In response to a request from Mr Hedqvist, the Revenue Law Commission of Sweden held in a preliminary decision that the exchange service constituted a transaction subject to VAT, to be exempted pursuant to Article 135(1)(e) of the VAT Directive[5]. This decision was appealed against by the Swedish tax authorities which argued that the service was not covered by the exemption. The Supreme Administrative Court referred the following questions to the CJEU for a preliminary ruling:

i. *First question*: Is Article 2(1) of the VAT Directive to be interpreted as meaning that transactions in the form of what has been described as the exchange of virtual currency for traditional currency and vice versa, which is effected for a consideration added by the supplier when the exchange rates are determined, constitute the supply of a service effected for consideration?

ii. *Second question*: If so, must Article 135(1) of the VAT Directive be interpreted as meaning that the abovementioned exchange transactions are tax exempt?

4. THE CJEU'S JUDGMENT

4.1. First question

The final conclusion of the CJEU concerning the first question is that *"Article 2(1)(c) of the VAT Directive must be interpreted as meaning that transactions such as those at issue in the main proceedings, which consist of the exchange of traditional currency for units of the 'bitcoin' virtual currency and vice versa, in return for payment of a sum equal to the difference between, on the one hand, the price paid by the operator to purchase the currency and, on the other hand, the price at which he sells that currency to his clients, constitute the supply of services for consideration within the meaning of that article"*[6].

The CJEU dismissed the possibility that the transactions at issue constitute a supply of goods according to Article 14 of the VAT Directive on the basis that Bitcoin cannot be seen as tangible property, and concluded instead that they constitute a supply of services pursuant to Article 24 of the VAT Directive.

A supply of services is subject to VAT within the meaning of Article 2(1)(c) of the VAT Directive only if effected for consideration, which requires a direct link[7] between the services supplied and the consideration received by the taxable person. Given the characteristics of the transactions carried out by the company – notably that (i) there was a legal relationship between that company and the other party to the contract; and (ii) the company would be remunerated by a consideration equal to the margin that it would

[5] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

[6] *Hedqvist*, paragraph 31.

[7] A direct link is established if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the actual consideration given in return for the service supplied to the recipient (*Hedqvist*, paragraph 27 and the case-law cited).

include in the calculation of the exchange rate – the CJEU concluded that such a supply of services is taxable.

4.2. Second question

The CJEU concluded on the second question that *"Article 135(1)(e) of the VAT Directive must be interpreted as meaning that the supply of services such as those at issue in the main proceedings, which consist of the exchange of traditional currencies for units of the 'bitcoin' virtual currency and vice versa, performed in return for payment of a sum equal to the difference between, on the one hand, the price paid by the operator to purchase the currency and, on the other hand, the price at which he sells that currency to his clients, are transactions exempt from VAT, within the meaning of that provision"*. It also reasoned that *"Article 135(1)(d) and (f) of the VAT Directive must be interpreted as meaning that such a supply of services does not fall within the scope of application of those provisions"*.

In the first place, the CJEU rejected the possibility that the supply of services made by the company could be exempt pursuant to Article 135(1)(d) of the VAT Directive, arguing that this provision concerns services or instruments that operate as a way of transferring money and does not cover transactions that involve money itself. More specifically, for the CJEU Bitcoin is a contractual means of payment and cannot be regarded as a current account or a deposit account, a payment or a transfer. Besides, unlike a debt, cheques and other negotiable instruments as referred to in Article 135(1)(d) of the VAT Directive, Bitcoin is, according to the CJEU, a direct means of payment between the operators that accept it[8].

The CJEU also concluded that Bitcoin could not fall within the scope of the exemption provided for under Article 135(1)(f) of the VAT Directive, since Bitcoin is not a security conferring a property right or a security of a comparable nature.

As regards the exemption laid down in Article 135(1)(e) of the VAT Directive for transactions involving, *inter alia*, currency used as legal tender, the CJEU found that the various language versions of the provisions do not allow to determine without ambiguity whether the exemption covers only traditional currencies (*i.e.*, currencies used as legal tender) or also other currencies; and that account therefore should be taken of the context in which the exemption is used and the aims of that exemption. According to the CJEU, the exemption laid down by Article 135(1)(e) of the VAT Directive aims at alleviating the difficulties linked to the calculation of the taxable amount in the field of financial transactions. Given that transactions involving Bitcoin are financial transactions which may face those same difficulties, and that Bitcoin has no other purpose than to be a means of payment accepted as such by certain operators, the CJEU concluded that the exemption provided for in Article 135(1)(e) of the VAT Directive covers the transactions at issue.

The CJEU has followed the opinion[9] of the Advocate General (AG) on both questions.

[8] *Hedqvist*, paragraph 42.
[9] CJEU, opinion of Advocate General Kokott of 16 July 2015 in *Hedqvist.*

5. THE COMMISSION SERVICES' ANALYSIS

The CJEU ruled in *Hedqvist* that the exchange of bitcoins for a traditional currency is a taxable service exempted from VAT pursuant to Article 135(1)(e) of the VAT Directive, therefore giving virtual currencies the same VAT treatment as traditional currencies in regard to exchange services.

In this respect, it should be noted that according to Article 135(1)(e) of the VAT Directive, Member States shall exempt *"transactions, including negotiation, concerning currency, bank notes and coins used as legal tender, with the exception of collectors' items, that is to say, gold silver or other metal coins or bank notes which are not normally used as legal tender or coins of numismatic interest"*.

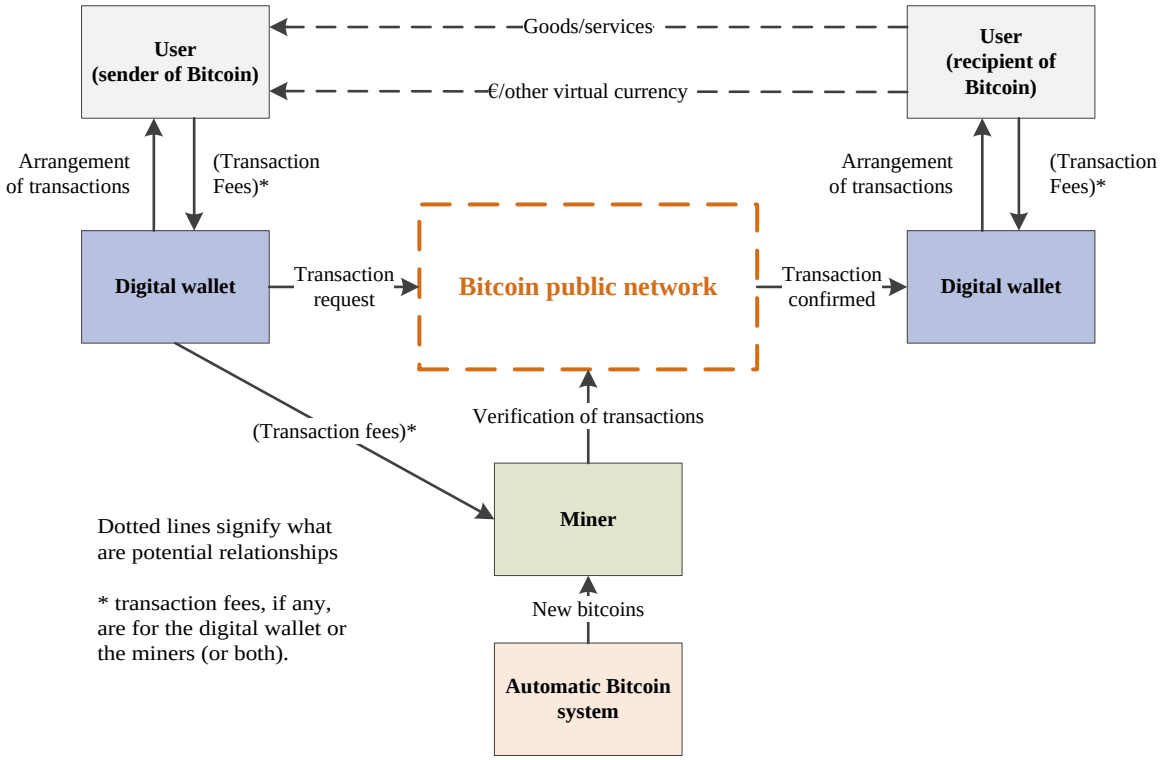
The scope of the case in *Hedqvist* was limited to transactions concerning the exchange of bitcoins for traditional currencies, but there are other activities which can be carried out in relation to Bitcoin. It is not necessarily clear whether these other activities constitute taxable transactions and if so whether they could profit from exemption pursuant to Article 135(1)(e) of the VAT Directive, or from any of the other exemptions for financial transactions. Therefore, it is time to examine the implications of the judgment on the VAT treatment of such other transactions, covering: (i) supplies of goods and services, subject to VAT, remunerated by way of Bitcoin; (ii) services concerning the arrangement of transactions in Bitcoin (digital wallets); (iii) services concerning the verification of transactions in Bitcoin (mining); and (iv) services related to intermediation provided by exchange platforms[10]. For every activity two aspects shall be looked at:

i. Is the transaction subject to VAT pursuant to Article 2(1) of the VAT Directive?
ii. If so, does the transaction fall within the scope of one of the exemptions for financial services provided for under Article 135(1) of the VAT Directive?

For the analysis, reference will be made to the way in which the Bitcoin system works, as the Commission services understand it[11]. It should be noted that we do not operate on a certain-fact case, due to the complex peer-to-peer decentralised and anonymous nature of the Bitcoin system. This should be kept in mind when looking at the diagram reproduced below which summarises how the system functions.

[10] Exchange services were examined by the CJEU in *Hedqvist*, where Mr Hedqvist's company was acting as an owner of bitcoins (buying/selling bitcoins). However, other exchange services may also involve a platform acting as an intermediary between buyers and sellers, which is the scenario that will be analysed in the present document.

[11] See also section 3.2 of Working paper No 811.



5.1. Previous discussions in the VAT Committee

Given that the VAT treatment of Bitcoin and its related activities depends on the status of the digital currency for VAT purposes, and that such a status is not straightforward to determine, in its first Working paper[12] the Commission services tabled several alternatives to be considered: (i) electronic money; (ii) currency; (iii) a negotiable instrument; (iv) a security; (v) a voucher; or (vi) a digital product. Treating bitcoins as electronic money, currency, a security or a voucher was discouraged, leaving two options for reflection: treating bitcoins as an electronically supplied service, or as an exempt negotiable instrument.

Treating bitcoins and traditional currencies on an equal footing for VAT purposes was disregarded by the Commission services on the grounds that the exemption provided for under Article 135(1)(e) of the VAT Directive covering *"transactions, including negociation, concerning currency, bank notes and coins ..."* is limited to currency used as legal tender, a characteristic that Bitcoin fails to have. This was so despite the fact that bitcoins operate as a means of payment and therefore perform the same functions as traditional currencies.

In the subsequent Working paper[13], the Commission services analysed from a VAT perspective the challenges derived from treating Bitcoin either as an electronically supplied service, or as an exempt negotiable instrument, which were the two options that had been left for consideration. In brief, it was pointed out that the problems arising from treating Bitcoin as an electronically supplied service were more numerous than those arising from treating them as negotiable instruments.

12 Working paper No 811.
13 Working paper No 854.

It must be noted that neither discusson led to guidelines being agreed, since most Member States preferred to postpone any decision on the matter until the CJEU had issued its judgment in *Hedqvist*.

5.2. VAT treatment of certain activities concerning Bitcoin, in light of *Hedqvist*

5.2.1. Preliminary remarks

Concerning the qualification of Bitcoin for VAT purposes, it must be acknowledged that the judgment of the CJEU in *Hedqvist* departs from the previous analysis of the Commission services: the exemption in *Hedqvist* is based on Article 135(1)(e) of the VAT Directive, thereby equating bitcoins and legal tender currencies for VAT purposes, an option not favoured by the Commission services at the time because of the legal tender requirement contained in the provision[14].

It also stems from the judgment of the CJEU that neither of the two options which had been left for consideration in previous analyses – bitcoins treated as a negotiable instrument or as a digital product – have any place in the further dicsussions.

Firstly, with respect to Bitcoin and its qualification as a digital product (*i.e.*, an electronically supplied service)[15], the CJEU did not directly deal with this matter in *Hedqvist*, but it is clear from the judgment that Bitcoin has no purpose other than being a means of payment[16]. This is also in line with the view taken by the AG: *"…the transfer of legal tender as such is accepted as not constituting a chargeable event for VAT purposes (…) Their function in a transaction is simply to facilitate trade in goods in an economy; as such, however, they are not consumed or used as goods (…) Bitcoins also constitute a pure means of payment. The only purpose of possessing them is to reuse them as a means of payment at some point. For the purposes of the chargeable event for VAT, therefore, they must be treated in the same way as legal tender"*[17]. Therefore, bitcoins are not to be seen as an aim in themselves and cannot be treated as a digital product for VAT purposes.

Secondly, as regards the qualification of Bitcoin as a negotiable instrument for the purposes of Article 135(1)(d) of the VAT Directive, the CJEU was clear in determining that bitcoins, unlike a debt, cheques and other negotiable instruments referred to in the provision, are a direct means of payment between the operators that accept them[18].

5.2.2. Supply of goods or services, subject to VAT, remunerated by way of Bitcoin

As stated in the previous analysis[19], the Commission services believe that the supply of any goods and services subject to VAT, remunerated by way of Bitcoin, should be treated

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14 The Commission services concluded in its last document (see section 3.7 of Working paper No 854) that treating bitcoins as negotiable instruments exempt under Article 135(1)(d) of the VAT Directive seemed the most suitable solution from a VAT perspective, as opposed to treating them as a taxed digital good. In practical terms, however, the exemption of transactions concerning Bitcoin seems to entail the same consequences, regardless of the specific provision under which the exemption is granted (either Bitcoin being a currency, or a negotiable instrument).

15 See section 3.1.6 of Working paper No 811.

16 *Hedqvist*, paragraph 24.

17 *Hedqvist*, points 14 to 18.

18 *Hedqvist*, paragraph 42.

19 See section 3.2.1 of Working paper No 811.

in the same way as any other supply for VAT purposes. After the judgment of the CJEU in *Hedqvist*, it has become clear that in such circumstances Bitcoin acts as a means of payment and that no VAT should be levied on the value of the bitcoins themselves.

The taxable amount of the goods or services supplied shall, according to Article 73 of the VAT Directive, be everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party.

Where such consideration is expressed in bitcoins, the taxable amount on which VAT is levied should be the equivalent value in a legal tender currency – the currency of the Member State where the supply takes place – of that consideration[20], at the time when the transaction takes place.

That requires a conversion of the bitcoins into traditional currency. As to the way in which such a conversion should be made when it comes to bitcoins, some concerns already identified in a previous analysis[21] must now be re-examined.

Article 91(2) of the VAT Directive provides for a conversion rate mechanism to be used where factors to determine the taxable amount of a transaction are expressed in a currency other than that of the Member State in which the assessment takes place. The mechanism foresees two alternatives for converting currency, that is using either (i) the exchange rate corresponding to the last selling rate recorded on the most representative exchange market of the Member State concerned; or, (ii) the latest exchange rate published by the European Central Bank (ECB).

However, the particularities of the Bitcoin system may render the application of Article 91(2) of the VAT Directive very difficult. On the one hand, Bitcoin exchange platforms are used worldwide and it is difficult to assess which is the "most representative" exchange market of a Member State; and, on the other hand, given that Bitcoin does not depend on a central authority, no foreign exchange reference rate is available.

The Commission services in the past[22] outlined that a potential solution could be to use as an exchange rate the open market value of the virtual currency, determined under the responsibility of the taxpayer. This open market value would be seen as an attempt to replicate the reference exchange rate referred to in Article 91(2) of the VAT Directive. On that basis, the VAT treatment of goods or services remunerated by means of Bitcoin would then be the same as that of similar goods or services remunerated with own or foreign legal tender currency.

5.2.3. Services concerning the arrangement of transactions in Bitcoin (digital wallets)

Users hold their virtual currency accounts, keep a record of their balances and interact with other users by means of digital wallets[23]. These digital wallets are software platforms

[20] See Article 230 of the VAT Directive.
[21] See section 3.5.1 of Working paper No 854.
[22] See section 3.6 of Working paper No 854.
[23] Where Bitcoin digital wallets provide other services, they should be looked at individually.

generally provided by third parties[24] that can either be stored offline in the user's own personal computer or, more frequently, stored and accessed through online connection. The digital wallets also allow users to transact among each other by sending and receiving virtual currency. Fees might be asked by digital wallet providers from Bitcoin users in exchange for such services.

i. Is the transaction subject to VAT?

For VAT purposes, the first question is whether the provision of services by digital wallet providers constitutes a supply of services for consideration by a taxable person acting as such, according to Article 2(1)(c) of the VAT Directive. To that end, two requirements must be looked at: (i) whether there is consideration; and (ii) whether the supply of services is effected by a taxable person acting as such.

Existence of consideration and a direct link

Concerning the existence of consideration, from the settled case-law of the CJEU, a supply of services is effected for consideration within the meaning of Article 2(1)(c) of the VAT Directive, and hence is taxable, only if there is a direct link between the services supplied and the consideration received[25]. Such a direct link is established if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the actual consideration given in return for the service supplied to the recipient[26].

Although it seems that the large majority of Bitcoin digital wallet providers do not at present require the payment of fees[27], when considering this issue, two assumptions – services supplied free of charge or in exchange for a fee – will be made.

- **If digital wallet providers operate free of charge**, there is no consideration given by Bitcoin users in return for digital wallet providers making available an environment aimed at holding and using bitcoins. Hence, the transaction would fall outside the scope of VAT in such circumstances.

It should be noted that if the supply of services free of charge is carried out by the digital wallet provider for his private use or for that of his staff or, more generally, for purposes other than those of his business, the transaction should be treated as a supply of services for consideration pursuant to Article 26(1)(b) of the VAT Directive.

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[24] For an overview of several digital wallet providers, see https://bitcoin.org/en/choose-your-wallet. Note that Bitcoin users can also set up and maintain a wallet themselves without making use of a wallet provider, in which case no service is supplied.

[25] Amongst others, CJEU, judgment of 7 October 2010 in C-53/09 *Loyalty Management UK*, paragraph 51; and CJEU, judgment of 8 March 1988 in case 102/86 *Apple and Pear Development Council*, paragraph 12.

[26] Amongst others, CJEU judgment of 27 March 2014 in case C-151/13 *Le Rayon d'Or*, paragraph 29; and CJEU, judgment of 3 March 1994 in case C-16/93 *Tolsma*, paragraph 14.

[27] European Central Bank (ECB): *Virtual currency schemes – a further analysis* (February 2015), p. 19. https://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemesen.pdf:"*The payee just needs to open a VCS account and wallet to be able to receive payments. As there is no payment service provider involved, there is usually no charge to be paid*".

- If **a digital wallet provider asks for the payment of fees** in exchange for his services, it seems that this is done in the framework of a legal relationship between him and his customer, which entails reciprocal performance and mutual obligations between the parties. It also seems clear that the fees would constitute a remuneration for the digital wallet provider. That means that the criteria laid down by the CJEU for a supply of services for consideration to exist would be fulfilled.

As we stated in a previous analysis[28], in such circumstances digital wallets could be compared to platforms – such as Netflix[29] or Spotify[30] – which allow users to access and use digital information through a specific software.

Digital wallet providers as taxable persons

As regards the requirement that the supply of services must be made by a taxable person acting as such, according to Article 9(1) of the VAT Directive a taxable person shall mean any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity. The same provision clarifies that any activity of producers, traders or persons supplying services is regarded as economic activity, and that the concept also covers the exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis.

The development and exploitation of software platforms to be offered to Bitcoin users in exchange for a fee constitute an economic activity for the purposes of Article 9(1) of the VAT Directive and, as such, digital wallet providers could be seen as taxable persons.

Therefore, where digital wallet providers perceive a consideration, and there is a direct link between that consideration and the services provided, these services would be taxable.

ii. Is the transaction exempt?

The applicability of an exemption pursuant to Article 135(1) of the VAT Directive shall be examined only in respect of those services supplied by a digital wallet provider which are found to be taxable within the meaning of Article 2(1)(c) of the VAT Directive. Notably, the exemptions provided for under Article 135(1)(e) and (d) could be considered.

As a side remark, the exemptions laid down in Article 135(1) of the VAT Directive 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. However, the interpretation of those terms must be consistent with the objectives pursued by the exemption and must allow them to have effect[31]. Besides, the transactions exempt from VAT under those provisions are, by their nature, financial transactions even though they do not necessarily have to be carried out by banks or financial institutions[32].

28 See section 3.2.2. of Working paper No 811.
29 https://www.netflix.com
30 https://www.spotify.com
31 *Hedqvist*, paragraphs 33-35 and case-law cited.
32 *Hedqvist*, paragraph 37 and case-law cited.

Article 135(1)(e) of the VAT Directive

The CJEU examined in *Hedqvist* whether the exchange services at issue in the main proceedings could fall within the scope of the exemption pursuant to Article 135(1)(e) of the VAT Directive, which covers not only the supply of currency, but also "transactions concerning" currency which present a sufficient degree of connection with such a supply to merit the same VAT treatment.

The scope of that provision is not easy to determine, as also expressed by the AG: *"If the exemption is to cover all transactions 'concerning' means of payment, the question of which transactions those should be is not easy to answer. The wording is extremely broad, as ultimately any transaction paid for with money concerns a means of payment"*[33]. The CJEU examined the requirement of Article 135(1)(e) of the VAT Directive in respect of currency being "legal tender", but did not clarify the meaning of "transactions concerning currency" and the extent up to which the exemption should be applied.

In that regard, it should be noted that the same wording "transactions concerning…" is used in Article 135(1)(d) of the VAT Directive regarding other financial instruments and activities, in respect of which the CJEU has stated that: *"a comparison of the various language versions (...) reveals that there are differences in terminology with regard to the phrase 'transactions.. concerning'. In view of those linguistic differences, the scope of the phrase cannot be determined on the basis of an interpretation which is exclusively textual. In order to clarify its meaning, reference must therefore be made to the context in which the phrase occurs and consideration given to the structure of the Sixth Directive"*[34].

It seems that applying the exemption in Article 135(1)(e) of the VAT Directive for some of the services supplied by Bitcoin digital wallet providers – notably, those which allow Bitcoin users to hold and operate with this virtual currency – would be in line with the current application of the exemption in the traditional banking field, thereby ensuring that the principle of fiscal neutrality is respected. For example, services supplied by banks and financial institutions which consist in making bank accounts in which money can be kept available in exchange for a service fee, and that resemble the activity carried out by Bitcoin digital wallets, are also exempt.

In any case, the transactions concerning currency must be closely related to the supply of currency *per se*, in order to be exempt. This is reinforced by the reflections of the AG in *Hedqvist*: *"Transactions directly concerning currencies…"*[35]. Where in a transaction, the currency merely serves as a means of payment for goods or services[36], this condition cannot be said to be met. Otherwise, any supply of goods or services remunerated via means of payment could be VAT exempt on account of being a transaction concerning currency.

It seems however that the services supplied by digital wallet providers directly "concern" means of payment within the meaning of Article 135(1)(e) of the VAT Directive – specifically, the making available of bitcoins to users – and create rights and obligations in

[33] *Hedqvist*, point 26.
[34] *SDC*, paragraph 22.
[35] *Hedqvist*, point 52.
[36] *Hedqvist*, point 27.

relation to the means of payment. Hence, the application of the exemption pursuant to Article 135(1)(e) of the VAT Directive could be justified.

Article 135(1)(d) of the VAT Directive

On the other hand, it is worth also briefly analysing whether such services could be exempt on other grounds, such as them being a transaction concerning payments or transfers pursuant to Article 135(1)(d) of the VAT Directive.

This exemption[37] could also be seen as covering the activities carried out by digital wallet providers. The provision exempts not simply payments and transfers but, more broadly, "transactions concerning" payments and transfers.

Given that for VAT purposes, the CJEU with its judgment in *Hedqvist* has assimilated bitcoins and traditional currencies, it can be assumed that transactions concerning payments and transfers of bitcoins and of legal tender currencies should be treated the same way.

The existing case-law of the CJEU concerning Article 135(1)(d) of the VAT Directive makes clear that, in order for a transaction to be covered by that exemption, the services provided must, viewed broadly, form a distinct whole, fulfilling in effect the specific, essential functions of an exempt supply[38]. More specifically, it has been outlined that "*for 'a transaction concerning transfers', the services provided must therefore have the effect of transferring funds and entail changes in the legal and financial situation. A service exempt under the Directive must be distinguished from a mere physical or technical supply, such as making a data-handling system available to a bank. In this regard, the national court must examine in particular the extent of the data-handling centre's responsibility vis-à-vis the banks, in particular the question whether its responsibility is restricted to technical aspects or whether it extends to the specific, essential aspects of the transactions*"[39].

In a nutshell, for a service to be exempt it is not sufficient that it constitutes an input to another exempt service. The service must in fact be an exempt service itself.

The functioning of digital wallet providers in the Bitcoin scheme could perhaps remind of the facts analysed by the CJEU in *SDC* where a data centre provided the technical and legal framework which allowed payment operations to take place, by connecting banks and Payment Service Providers[40].

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37 In a previous analysis (section 3.2.2 of Working paper No 811), the Commission services found that the services provided by digital wallets could fall within the exemption of Article 135(1)(d) of the VAT Directive. That conclusion, however, was based on bitcoins being considered to be a negotiable instrument, and Article 135(1)(d) of the VAT Directive exempting transactions concerning negotiable instruments. However, given the CJEU judgment in *Hedqvist*, this option must be ruled out. Services provided by digital wallets have never been examined in relation to payments and transfers.

38 Amongst others, CJEU, judgment of 5 June 1997 in case C-2/95 *SDC*, paragraph 66; and CJEU, judgment of 13 December 2001 in case C-235/00 *CSC Financial Services*, paragraph 25. Account should also be taken of case C-607/14 *Bookit*, lodged on 20 February 2015 and still pending.

39 *SDC*, paragraph 66.

40 The CJEU delegated to national courts the actual assessment of activities carried out by SDC.

The CJEU also dealt with similar facts in *Nordea*[41]. In this case, a company (SWIFT) provided a messaging system for interbank money and security transactions, through which banks and financial institutions could securely transmit the details of transactions to be effected. The question arose as to whether these transactions could qualify as VAT exempt under Article 135(1)(d) of the VAT Directive, on the basis that these were transactions concerning payments and transfers. The CJEU ruled that such services should be subject to VAT and not exempted, based on SWIFT's responsibility being limited to mere technical aspects and not extending to specific, essential elements of the financial transactions at issue in the main proceedings.

As a matter of fact, the role played by SWIFT rather seems to resemble that of digital wallet platforms. Those platforms are connecting Bitcoin users (senders and recipients of the virtual currency) and the miners whose task it is to verify transactions between users of Bitcoin but supplying this service does not in itself entail any change as regards the ownership of the funds, no matter how necessary the service may be for the Bitcoin transaction to take place.

Additionally, the fact that some Bitcoin users may set up a digital wallet for themselves without making use of a third party provider could also indicate that the service supplied by digital wallet providers is not an essential element for the transfer of bitcoins to take place.

Even if such services were to be considered an essential element for completing an exempt transaction – that is, even if some would argue that without the transfer of information by the digital wallet, bitcoins could not be transferred –, that would not according to the CJEU[42] warrant the conclusion that the service which that element represents is exempt.

Therefore, in light of the reasoning above, the Commission services are inclined to believe that taxable services supplied by digital wallet providers in exchange for a consideration could not fall within the exemption pursuant to Article 135(1)(d) of the VAT Directive.

5.2.4. Services concerning the verification of Bitcoin transactions (mining)

Miners who perform the activity of mining, provide security to the functioning of the Bitcoin system by validating requests for Bitcoin transactions, that is, miners confirm that the data of a transaction request by a user is valid and consistent with previous transaction records of that same user. While a transfer of money made through traditional banking systems either arrives at the recipient or not, the transfer of bitcoins is a more progressive process: a transfer request needs to be verified at least once by a miner before the recipient can start using the received bitcoins, but to increase its reliability the transfer request can be verified more times. The more times that a transaction is confirmed, the less the risk is of double spending.

Miners work anonymously, on a voluntary basis, and are rewarded with new bitcoins generated automatically by the system for every block of transactions validated[43]. In

41 CJEU, judgment of 28 July 2011 in case C-350/10 *Nordea.*

42 *SDC*, paragraph 65; and *Nordea*, paragraph 31.

43 Mining is the only way to create new money in the Bitcoin scheme, which is designed as a decentralised system where no central monetary authority is involved. Hence the supply of bitcoins does not depend on the monetary policy of any virtual central bank, but rather evolves based on interested users

addition, Bitcoin users may decide to offer a transaction fee to miners, as an incentive for them to perform the activity of verification within the briefest delay possible[44].

i. Is the transaction subject to VAT?

Again, for VAT purposes, the first question is whether mining activities could be considered to constitute a supply of services for consideration by a taxable person acting as such, according to Article 2(1)(c) of the VAT Directive. Therefore, two requirements must be looked at: (i) whether there is consideration; and (ii) whether the supply of services is effected by a taxable person acting as such.

Existence of consideration and a direct link

Concerning the existence of consideration, from the settled case-law of the CJEU, a supply of services is effected for consideration within the meaning of Article 2(1)(c) of the VAT Directive, and hence is taxable, only if there is a direct link between the services supplied and the consideration received, as well as a reciprocal performance between the provider of the service and the recipient[45].

Whether this requirement is met is not straightforward to answer in the circumstances at hand, due to the characteristics of mining. So, as shall be seen, arguments in favour and against considering mining activities as a taxable supply of services are outlined below. Two assumptions – the supply of services with or without transaction fees paid by the Bitcoin user – will be made.

- **If miners receive no transaction fee** in return for the activity of verification, it seems that the transaction would fall outside the scope of VAT, unless the service is carried out for the miner's private use as in that case the transaction would be treated as a supply of services for consideration according to Article 26(1)(b) of the VAT Directive.

On the other hand, some may consider that the new bitcoins automatically generated by the Bitcoin system every time that a transaction request is successfully verified could be considered to constitute consideration for the mining activities. In this respect, it should be kept in mind that the VAT Directive does not require, for a supply of services to be effected for consideration within the meaning of Article 2(1), that the consideration is obtained directly from the person to whom those services are supplied. According to Article 73 of the VAT Directive the consideration may be obtained from a third party, which could lead to see new bitcoins created by the system as consideration for the miner.

performing a specific activity: mining. So, there exists no single organisation in charge of the currency, but everyone (collectively) "is" the bank.

44 *"Each confirmation takes between a few seconds and 90 minutes, with 10 minutes being the average. If the transaction pays too low a fee or is otherwise atypical, getting the first confirmation can take much longer"* (https://bitcoin.org/en/you-need-to-know).

45 See section 5.2.3.i. and case-law cited.

The fact that the creation of bitcoins will grind to a halt in the future[46] may perhaps render it difficult to sustain such an interpretation in the long term. However, at that point in time, it may be that transaction fees would become the more common norm.

- Even **if miners receive a transaction fee**, it is not necessarily clear that the transaction would be taxable pursuant to Article 2(1)(c) of the VAT Directive. Transaction fees are, as matters stand, voluntary on the part of the person making the bitcoin transaction, and work as an incentive to make sure that a particular transaction is verified more quickly by the miner (*i.e.*, to make sure that a miner will choose to confirm the data of a specific transaction request over others). This seems to imply that such transaction fees and the activity performed by miners are somehow dissociated.

As an example, at this moment it is possible that a bitcoin transaction request is verified – even if that takes more time than average – without the miner receiving any fee from the sender, with him relying only on newly minted bitcoins automatically created by the system. Moreover, from the perspective of the miner, his activity of verification does not create any right to receive a transaction fee from the user whose transactions have been successfully included in the blockchain.

Hence, some may see the fee paid by the user to the miner in exchange for the activity of verification not as a consideration but rather as a tip comparable to that given by a passer-by to a street musician, as happened in *Tolsma*[47]. In that case, a musician played a barren organ on the public highway and invited passers-by to leave a donation in a tin. The CJEU held that playing music on the public highway for which no consideration was stipulated did not constitute a taxable supply of services.

According to that same reasoning, it could perhaps be argued that a direct link is missing so that the verification activity performed by miners would be seen as a transaction not subject to VAT on the grounds of there not being a clear legal relationship and mutual performance between the user and the miner.

Having said so, treating mining as falling outside the scope of VAT might be challenged on other grounds. Two specific arguments are presented below.

Firstly, in a future scenario where new bitcoins would no longer be available, the payment of transaction fees could become the only way of verifying a transaction request. As already said, transactions fees are meant to replace automatic rewards in future. Nowadays, newly minted bitcoins act as a form of subsidy for the transaction costs of the Bitcoin system and so they render transaction fees paid by the user voluntary (the miner already makes a profit from new bitcoins). However, if the supply of new bitcoins shrinks – and so as well the automatic reward that miners receive – it is likely that the rewards derived from each verification would be insufficient to create enough profit for miners[48].

This could imply that no transaction request could be verified by a miner without him receiving a transaction fee, a scenario which would resemble the more traditional

[46] Miners are expected to finance themselves only via transaction fees from around year 2040, as from which the ceiling of 21 million existing bitcoins will have been reached and no new bitcoins are created. See https://en.bitcoin.it/wiki/Transaction_fees for more information.

[47] CJEU, judgment of 3 March 1994 in case C-16/93 *Tolsma*.

[48] KAŞKALOĞLU, K.: *Near zero Bitcoin Transaction Fees Cannot Last Forever* (2014).

exchange of services for consideration. In such circumstances, it might be claimed that there is actually a direct link between the payment of a fee by the Bitcoin user and the provision of the activity of verification.

Secondly, some may find that the possible future scenario set out above is not that different from the *de facto* present situation: although Bitcoin transactions carried out for free are in theory possible, it seems that for the large majority of transactions users are in actual fact paying fees as this is the default set by most digital wallet providers[49].

Miners as taxable persons

As already stated, according to Article 9(1) of the VAT Directive a taxable person shall mean any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity.

Regarding bitcoins, in order to perform the activity of mining it is necessary to dispose of some powerful hardware able to unravel mathematical problems. In that case a direct relationship exists between the hardware tools and the capacity to find solutions to complex calculations and, therefore, verify Bitcoin transactions. This could be seen as an indication that mining activities would have to be characterised as an economic activity which is defined according to a wide notion, even covering illegal transactions[50] and preparatory acts[51].

For the transaction to fall within the scope of VAT, though, miners would not only have to be considered taxable persons carrying out an economic activity, but the requirement concerning the existence of a consideration and a direct link, as examined above, must be met.

ii. Is the transaction exempt?

Only if transactions performed by miners are considered to fall within the scope of VAT will it be pertinent to examine whether they are exempt pursuant to some of the provisions provided for under Article 135(1) of the VAT Directive, notably points (e) and (d).

As a preliminary remark, and as pointed out in the previous section[52], the exemptions laid down in Article 135(1) of the VAT Directive are to be interpreted strictly, although the interpretation of those terms must be consistent with the objectives pursued by the exemption and allow them to have effect. Besides, the transactions exempt from VAT under those provisions do not necessarily have to be carried out by banks or financial institutions.

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49 *"Transactions can be processed without fees, but trying to send free transactions can require waiting days or weeks. Although fees may increase over time, normal fees currently only cost a tiny amount. By default, all Bitcoin wallets listed on Bitcoin.org add what they think is an appropriate fee to your transactions; most of those wallets will also give you chance to review the fee before sending the transaction"* (https://bitcoin.org/en/faq#how-much-will-the-transaction-fee-be).

50 CJEU, judgment of 5 July 1988 in case 269/86 *Mol*.

51 CJEU, judgment of 14 February 1985 in case 268/83 *Rompelman*.

52 Section 5.2.3.ii.

Article 135(1)(e) of the VAT Directive

The CJEU examined in *Hedqvist* whether the exchange services at issue in the main proceedings could fall within the scope of the exemption pursuant to Article 135(1)(e) of the VAT Directive, which covers "transactions concerning" currency. Again, account should be taken of the challenges linked to the determination of the scope of this provision, as outlined in the previous section[53].

As regards the scenario that is now being examined, it must be borne in mind that the activity performed by miners does not only lead to the creation of new units of the virtual currency, but it also plays a fundamental role in keeping the Bitcoin system operative and trustworthy by ensuring the accuracy of the transactions data.

Hence, it seems that the services supplied by miners may be considered to be sufficiently related to the supply of bitcoins themselves and, therefore, may be seen as a transaction concerning currency within the meaning of Article 135(1)(e) of the VAT Directive.

Article 135(1)(d) of the VAT Directive

Having said so, it is worth briefly analysing whether such services could also be exempt on other grounds, such as them being a transaction concerning payments or transfers pursuant to Article 135(1)(d) of the VAT Directive.

It seems that the services supplied by miners look rather like the activities covered by Article 135(1)(d), that is, payments and transfers. In fact, payments and transfers are not to be seen as a supply of a currency as such, but as services which allow for the supply of a currency to take place. In the words of the CJEU, *"a transfer is a transaction consisting of the execution of an order for the transfer of a sum of money"*[54], and also according to the AG, payments and transfers must comprise the execution of cash and non-cash payments to a particular third-party recipient[55] and this bears a substantial resemblance to miner's activities.

Again, given that in *Hedqvist* the CJEU put bitcoins and traditional currencies at the same level for VAT purposes, it must be assumed that transactions concerning payments and transfers of legal tender currencies are not distinct from those concerning payments and transfers in Bitcoin.

As already observed in the previous section[56], in order for a transaction to be covered by the exemption provided for under Article 135(1)(d) of the VAT Directive, the services provided must, viewed broadly, form a distinct whole, fulfilling in effect the specific, essential functions of an exempt supply. Besides, it should be noted that Article 135(1)(d) provides for exemption not simply of payments and transfers but, more broadly, of "transactions concerning" payments and transfers. To be covered, it is not required that a transaction constitutes payment or transfer but it must present a sufficient degree of connection with such payment or transfer.

53 *Ibid.*
54 *SDC*, paragraph 53.
55 *Hedqvist*, point 47.
56 See section 5.2.3.ii and case-law cited.

The role played by miners could be reminiscent of the facts analysed by the CJEU in *Nordea*, where a company (SWIFT) provided with a worldwide electronic messaging service which allowed payment operations to take place, by connecting financial institutions and other corporate clients, as already explained. The CJEU found that the services provided by SWIFT were not covered by the exemption, regardless of how necessary these inputs were, and that SWIFT's activities *"do not by themselves perform any of the functions of the financial transactions referred to in the VAT Directive, that is to say those which have the effect of transferring funds or securities, and do not therefore possess the character of such transactions"*[57].

Some could see miners as a mere contact point between Bitcoin users intending to send and receive a transfer, in line with the services provided by SWIFT. However, unlike the services provided by SWIFT, it seems that miners do not only act as mere transmitters of information, but actually perform an activity which is crucial for the sustainability of the Bitcoin system, the accuracy of the content of the transactions, and avoiding the problem of double-spending. The miner, in fact, checks whether the information contained in a transaction request is valid and consistent with the information concerning past transactions which is registered in the Bitcoin public ledger (the blockchain).

Therefore, whilst SWIFT's responsibility was found to be limited to technical aspects and the mere passing-on of information[58] with them having no access to the content of the messages transmitted[59], it could be argued that mining activities constitute the actual transfer of funds.

Hence, it seems that if services provided by miners are found to fall within the scope of VAT, there could be arguments in favour of treating them as an exempt supply according to Article 135(1)(d) of the VAT Directive.

5.2.5. Services related to intermediation provided by exchange platforms

Services consisting in the exchange of bitcoins for traditional currency and vice versa were found to be exempt pursuant to Article 135(1)(e) of the VAT Directive by the CJEU in *Hedqvist*, where the company bought and sold bitcoins acting as the owner of the virtual currency (*i.e.*, acting as a principal)[60].

However, in other cases the services supplied by Bitcoin exchange platforms to buyers and sellers of the virtual currency are related to intermediation[61], which is the scenario that shall be the object of analysis below. In such circumstances, exchange platforms aim at enabling trade directly between Bitcoin users by offering a virtual market place[62]; and the platform may charge a fee for making use of its trading tool.

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57 *Nordea*, paragraph 34.
58 *Nordea*, paragraph 13.
59 *Nordea*, paragraph 30.
60 For other exchange platforms with the same functioning, see for instance https://www.coinbase.com/ and https://www.bitstamp.net/.
61 See, for instance https://www.bitcoin.de/en and https://localbitcoins.com/
62 Note that exchange platforms may also act as digital wallet providers by offering their users the possibility to keep record of their Bitcoin balances within the exchange platform, that is, without having to make use of a digital wallet provided by a third party.

i. Is the transaction subject to VAT?

Again, in order to examine whether the services provided by exchange platforms acting as an intermediary fall within the scope of VAT pursuant to Article 2(1)(c) of the VAT Directive, two aspects must be looked at[63], that is (i) whether there is consideration; and (ii) whether the supply of services is effected by a taxable person acting as such. Two assumptions – the supply of services with or without transaction fees paid by the Bitcoin user – will be made.

Existence of consideration and a direct link

- If the exchange platform acting as an intermediary **offers its services for no consideration**, the transaction would fall outside the scope of VAT, unless Article 26(1)(b) of the VAT Directive applies.

- If, however, **fees are paid by Bitcoin users to the intermediary** in exchange for using the virtual market place, it seems that there would be synallagmatic legal relationship between them, and the transaction would be taxable.

Exchange service providers as taxable persons

According to Article 9(1) of the VAT Directive a taxable person shall mean any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity.

In this respect, it seems straightforward to consider that the development and exploitation of online exchange platforms which allow for the interaction between Bitcoin users (buyers and sellers of the virtual currency), to which access is offered in exchange for a fee, constitute an economic activity for the purposes of Article 9(1) of the VAT Directive.

Hence, the Commission services are of the opinion that services related to intermediation offered for consideration, where there is a direct link between that consideration and the services provided, would be taxable.

ii. Is the transaction exempt?

The applicability of an exemption pursuant to Article 135(1) of the VAT Directive shall be examined only in respect of those services supplied by an exchange platform acting as an intermediary which are found to be taxable within the meaning of Article 2(1)(c) of the VAT Directive.

Again, it is important to keep in mind that the exemptions laid down in Article 135(1) of the VAT Directive are to be interpreted strictly, and that the transactions exempt from VAT under those provisions do not necessarily have to be carried out by banks or financial institutions[64].

[63] See section 5.2.3.i. for a more detailed analysis of these requirements.
[64] See section 5.2.3.ii.

Article 135(1)(e) of the VAT Directive

The CJEU examined in *Hedqvist* whether the exemption pursuant to Article 135(1)(e) of the VAT Directive, which exempts transactions concerning currency, could be applied to the exchange services at issue in the main proceedings (where the supplier of the service acted as the owner of the virtual currency).

However, it remains to be seen whether the exemption could also apply to intermediary services offered by exchange platforms. The question is whether the circumstances under which these intermediation services are supplied are so different from the case where the exchange platform acts as a principal, as to not merit the same VAT treatment (*i.e.*, not to be exempt, as found by the CJEU in *Hedqvist*).

Bitcoin exchange platforms acting as intermediaries may in terms of their activity remind of crowdfunding platforms which allow peer-to-peer interaction between those that create a project and those that provide with financial support to that project and where, in exchange, the platform receives a fee. Concerning the VAT treatment of services related to the intermediation provided by crowdfunding platforms, the Commission services stressed in their analysis that the intermediation services should be distinguished from any potential transaction taking place between the users of the crowdfunding platform, and that the intermediation services should be exempt only when consisting in financial services exempted under Article 135(1) of the VAT Directive[65].

There seems to be no difference between the functioning of crowdfunding platforms and those Bitcoin exchange platforms which act as intermediaries, except for the fact that Bitcoin exchange platforms allow for the contact between users aiming to trade what is a means of payment. In this respect, the nature of the peer-to-peer activities or transactions carried out by the users of an online platform (*e.g.*, merely interacting with each other, such as in a multiplayer networked videogame; or supplying goods or services between them, such as in reward-based crowdfunding; or supplying a means of payment to each other, such as in Bitcoin exchange platforms) should not affect the VAT treatment of the services provided by the platform itself, which is the making available of a specific software in exchange for a fee.

In *Hedqvist*, the service provided by the company was exempted on the grounds of it consisting in the exchange of traditional currencies for units of bitcoins and vice versa[66]. In the words of the AG: *"This service concerns means of payment within the meaning of Article 135(1)(e) of the VAT Directive, specifically the exchange thereof, and this exchange also establishes rights and obligations in relation to the means of payment"*[67]. In contrast, a Bitcoin exchange platform acting as an intermediary is not supplying an exchange service, even if its infrastructure allows that exchange to take place. Furthermore, the use of the Bitcoin exchange platform does not seem to entail any right or duty for the platform with regard to the transfer of bitcoins themselves.

65 See Working paper No 836 (section 3.3).
66 *Hedqvist*, paragraph 53.
67 *Hedqvist*, point 28.

It is true that Article 135(1)(e) of the VAT Directive provides for exemption not simply for the supply of currency but more broadly for "transactions concerning" currency[68]. This means that the exemption extends to transactions which are not themselves supplies of currency but which present a sufficient degree of connection with them to merit the same VAT treatment.

However, having regard to the circumstances under which the services related to intermediation are provided by Bitcoin exchange platforms, it is doubtful that the provision of an online market place allowing the peer-to-peer trade of bitcoins holds a sufficient degree of connection with the supply of a means of payment to be considered a transaction concerning currency, or a financial service.

Therefore, it seems that services related to intermediation provided by Bitcoin exchange platforms could not be seen as exempt pursuant to Article 135(1)(e) of the VAT Directive.

5.3. Conclusions

The scope of the case in *Hedqvist* was limited to transactions concerning the exchange of bitcoins for traditional currencies, but there are other activities which can be carried out in the Bitcoin sphere. Find below a table which summarises the conclusions reached in respect of such activities.

Activity	Subject to VAT?	If so, exempt?
Use of bitcoins for acquiring goods or services	• *Out of scope*: No VAT should be levied on the value of the bitcoins themselves.	
Supplies of goods or services, subject to VAT, remunerated in bitcoins	• *Taxable*: The supply of goods and services, subject to VAT and remunerated by way of Bitcoin, would for VAT purposes be treated in the same way as any other supply. VAT should therefore be levied on the goods or services provided.	
Services supplied by digital wallets	• *Out of scope*[69]: A large majority of the services supplied by digital wallet providers are free of charge, which sees these transactions falling outside the scope of VAT.	

[68] See the challenges linked to the determination of the scope of this provision in previous section 5.2.3.ii.
[69] Unless Article 26(1)(b) of the VAT Directive applies.

	• *Taxable*: If, however, some digital wallet providers ask for payment of fees in exchange for their services, it seems that the transaction would be taxable.	• *Exempt*: Such services could however be seen as exempt pursuant to Article 135(1)(e) of the VAT Directive, on the grounds of them being transactions directly concerning currency. • *Not exempt*: It seems that services supplied by digital wallet providers could not be exempt pursuant to Article 135(1)(d) of the VAT Directive.
Mining activities	• *Out of scope*[70]: The fact that the payment of a transaction fee by a Bitcoin user is not a necessary condition for successfully sending bitcoins (and thus for receiving a verification service supplied by the miner) may be indicative of there not being a direct link between the consideration and the service. Besides, the provision of a mining service does not create for the miner the right to receive a consideration in exchange, which could imply the non-existence of a legal synallagmatic relationship between him and the recipient of the verification services (the user whose transaction request the miner has validated).	
	• *Taxable:* New bitcoins received automatically by the miner from the Bitcoin system every time that a verification service is supplied could possibly be seen as constituting a consideration for a taxable service. Despite the fact that Bitcoin transactions carried out for free are in theory possible, in practice Bitcoin users pay fees (used as a default by most digital wallets); and it seems almost impossible to imagine users would be willing to wait days or weeks, before a transaction is verified (which could be the case if no fee is paid).	• *Exempt:* Mining activities could be seen as exempt pursuant to Article 135(1)(e) of the VAT Directive, on the grounds of them being services directly concerning currency. • *Exempt:* Mining activities could be treated as exempt pursuant to Article 135(1)(d) of the VAT Directive on the basis of them fulfilling in effect the specific, essential functions of an exempt supply (the transfer of bitcoins itself).

[70] Unless Article 26(1)(b) of the VAT Directive applies.

Services related to intermediation supplied by exchange platforms	• *Taxable*: Services for consideration supplied by exchange platforms acting as intermediaries would be taxable.	• *Not exempt:* Exchange services could not be seen as exempt pursuant to Article 135(1)(e) of the VAT Directive.

6. DELEGATIONS' OPINION

The delegations are requested to give their opinion on the issues raised.

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