

ECJ/CJEU Cases decided in 2019

Case #	Date decision	Name of the case	Topic	Subject of the case	Link	Reference to articles in the Directive	Decision
C-1/18	20/06/2019	Oribalt Riga	Customs - Taxable amount	Determination of the customs value of goods - Concept of 'similar goods' - Medicinal products - Taking into account all elements which may affect the economic value of the medicinal product concerned - 90-day period within which the imported goods must be sold in the European Union - Strict deadline - No obligation to take account of commercial discounts	Link		<p>(1) Where the customs value of goods, such as the medicinal products at issue in the dispute in the main proceedings, is calculated by applying the deductive method (<i>note: this is one of the methods used for calculating the customs value</i>), the competent national customs administration must, in order to identify “similar goods”, take into account any relevant element, such as the respective composition of these goods, their substitutability with regard to their effects and their commercial interchangeability, by proceeding factual assessment taking into account any element that may affect the actual economic value of the goods, including the position on the market for the imported goods and their manufacturer.</p> <p>(2) Reductions in the selling price of imported goods <u>can not</u> be taken into account in determining the customs value of such goods under this provision.</p>
C-127/18	08/05/2019	A-PACK CZ	Taxable amount	Total or partial non-payment, by the debtor, of a sum due to the taxable person in respect of a transaction subject to VAT — Taxable amount — Reduction — Principles of fiscal neutrality and proportionality	Link	73, 90	Article 90 of the VAT Directive must be interpreted as <u>precluding</u> national legislation, such as that at issue in the main proceedings, which provides that a taxable person cannot correct the value added tax (VAT) taxable amount, in the case of total or partial non-payment, by its debtor, of a sum due in respect of a transaction subject to that tax, if the debtor is no longer a taxable person for the purposes of VAT.

C-133/18	02/05/2019	Sea Chefs Cruise Services	Right to deduct VAT	Request for additional information formulated by the Member State of refund - Additional information to be provided by the addressee of that request within one month of its receipt - Legal nature of the deadline and consequences of failure to comply with it\	Link	Directive 2008/9/EC - Article 20	Article 20 (2) of Council Directive 2008/9 / EC of 12 February 2008 laying down detailed rules for the refund of value added tax provided for in Directive 2006/112 / EC to taxable persons not resident in the Member State of a refund but established in another Member State must be interpreted as meaning that the one-month period laid down in this provision to provide the Member State of refund with the additional information requested by it is not an expiry period which means that, if that period is exceeded or not responded to the request for data, loses the possibility of regularizing its refund request by submitting directly to the national court the additional data demonstrating his right to a refund of value added tax.
C-145/18	05/09/2019	Regards Photographiques	VAT rate	Reduced rate of VAT — Works of art — Concept — Photographs taken by the artist, printed by him or under his supervision, signed and numbered and limited to 30 copies — National legislation restricting the application of the reduced rate of VAT only to photographs that have artistic character)	Link	103(2)(a), 311(1), point 2, Annex IX, Part A, point 7	<p>1. In order to be regarded as works of art eligible for the reduced rate of value added tax (VAT) under Article 103(1) and (2)(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with point 2 of Article 311(1) of that directive and point 7 of Part A of Annex IX thereto, photographs must meet the criteria set out in that point 7, in that they have been taken by their creator, printed by him or under his supervision, signed and numbered and limited to 30 copies, to the exclusion of all other criteria, in particular the assessment by the competent national tax authority of their artistic character.</p> <p>2. Article 103(1) and (2)(a) of Directive 2006/112, read in conjunction with point 2 of Article 311(1) of that directive and point 7 of Part A of Annex IX thereto, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which restricts the application of the reduced rate of VAT only to photographs that have artistic character, in so far as the existence of such artistic character is subject to an assessment by the competent national tax authority which is not made within the confines of objective, clear and precise criteria set by that national legislation, making it possible to determine precisely the photographs to which that legislation reserves the application of the reduced rate of VAT, in such a way as to avoid infringing the principle of fiscal neutrality.</p>

C-165/17	24/01/2019	Morgan Stanley & Co International	Right to deduct VAT	Deduction of input tax — Goods and services used for both taxable transactions and exempt transactions (mixed-use goods and services) — Determination of the applicable deductible proportion — Branch established in a Member State other than that of its principal establishment — Expenditure incurred by the branch used exclusively for the transactions of the principal establishment — General costs of the branch used for both its transactions and those of the principal establishment	Link	17(2), (3) and (5) and Article 19(1) of Sixth Council Directive 77/388/EEC and 168, 169 and 173 to 175 of Council Directive 2006/112/EC	<p>1. Article 17(2), (3) and (5) and Article 19(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, and Articles 168, 169 and 173 to 175 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that, in relation to the expenditure borne by a branch registered in a Member State, which is used, exclusively, both for transactions subject to value added tax and for transactions exempt from that tax, carried out by the principal establishment of that branch established in another Member State, it is necessary to apply a deductible proportion resulting from a fraction the denominator of which is formed by the turnover, exclusive of value added tax, made up of those transactions alone and the numerator of which is formed by the taxed transactions in respect of which value added tax which would also be deductible if they had been carried out in the Member State in which that branch is registered, including where that right to deduct stems from the exercise of an option, effected by that branch, consisting in making the transactions carried out in that State subject to value added tax.</p> <p>2. Article 17(2), (3) and (5) and Article 19(1) of Sixth Directive 77/388, and Articles 168, 169 and 173 to 175 of Directive 2006/112 must be interpreted as meaning that, in order to determine the deductible proportion applicable to the general costs of a branch registered in a Member State, which are used for both transactions of that branch in that State and transactions of the principal establishment of that branch established in another Member State, account must be taken, in the denominator of the fraction which makes up that deductible proportion, of the transactions carried out by both that branch and that principal establishment, it being specified that it is necessary that, in the numerator of that fraction, besides the taxed transactions carried out by that branch, solely the taxed transactions carried out by that principal establishment must appear, in respect of which value added tax would also be deductible if they had been carried out in the State in which the branch concerned is registered.</p>
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C-185/18	12/06/2019	Oro Efectivo	Taxable transactions	Principle of fiscal neutrality — Acquisition by an undertaking, from private individuals, of objects with a high gold or other precious metal content with a view to resale — Duty on transfers of assets	Link	401	Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principle of fiscal neutrality must be interpreted as not precluding a national rule of law, such as that at issue in the main proceedings, which subjects to an indirect tax on asset transfers, other than value added tax, the acquisition by an undertaking, from private individuals, of objects with a high gold or other precious metal content, where those assets are intended for use in the economic activities of that undertaking, which, with a view to their being processed and placed back on the market, resells them to undertakings specialising in the manufacture of ingots or a variety of items made from precious metals.
C-189/18	17/10/2019	Glencore Agriculture	Right to deduct VAT	Right to deduct VAT - Refusal - Fraud - Evidence - Principle of respect for the rights of the defence - Right to claim be heard - Access to the file - Article 47 of the Charter of Fundamental Rights of the European Union - Effective judicial review - Principle of equality of arms - Principle of fair hearing - National legislation or practice according to which the tax authorities when verifying the right to deduct VAT exercised by a taxable person, is bound by the factual findings and legal qualifications that he has already established in the context of related administrative procedures to which that taxable person was not a party '	Link	167 and 168	Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, the principle of respect for the rights of the defence and Article 47 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding, in principle, legislation or practice of a Member State under which, when controlling the right to deduct value added tax (VAT) exercised by a taxable person, the tax authorities are bound by the factual findings and legal qualifications which they have already established in related administrative proceedings against suppliers of that taxable person, on which final decisions establishing the existence of VAT evasion committed by those suppliers are based, provided, first, that those arrangements do not release that tax authority from the obligation to notify the taxable person of the evidence, including evidence from those related administrative procedures on the basis of which he intends to take a decision and which therefore does not deprive that taxable person of the right to challenge properly those findings of fact and legal qualifications during the procedure to which he is subject; secondly, that taxable person may, during that procedure, have access to any evidence gathered in the context of those related administrative procedures or of any other procedure on which the tax administration intends to base its decision or which may be useful for the exercise of the rights of defence, unless objectives of general interest justify a restriction of such access and, thirdly, the court hearing an appeal against that decision may verify that those elements were lawfully

							acquired and used and may review the findings in the administrative decisions taken in respect of those suppliers which determine the outcome of the appeal.
C-201/18	27/03/2019	Mydibel	Right to deduct VAT – Adjustment of VAT Deduction	Harmonisation of fiscal legislation — Deduction of input tax — Immovable property acquired as capital goods — Sale and lease back — Adjustment of deductions of VAT — Principle of VAT neutrality — Principle of equal treatment)	Link	184, 185, 187 and 188	<p>Subject to verification of the relevant matters of fact and national law by the referring court, Articles 184, 185, 187 and 188 of the VAT Directive, must be interpreted as not imposing an obligation to adjust value added tax (VAT) on a building which was initially deducted correctly, where that property was the subject of a sale and lease back transaction not subject to VAT in circumstances such as those at issue in the main proceedings.</p> <p>An interpretation of Articles 184, 185, 187 and 188 of this Directive, as imposing an obligation to adjust the value added tax (VAT) initially deducted in circumstances such as those at issue in the main proceedings complies with the principles of VAT neutrality and equal treatment.</p>
C-214/18	10/04/2019	PSM „K”	Taxable amount	Court enforcement officer — Enforcement — Fees laid down by law — Administrative practice of the competent national authorities considering those fees to be inclusive of VAT — Principles of neutrality and proportionality	Link		The provisions of the VAT Directive and the principles of neutrality of value added tax (VAT) and proportionality must be interpreted as <u>not precluding</u> an administrative practice of the competent national authorities, such as that at issue in the main proceedings, under which the VAT relating to supplies of services by a court enforcement officer in an enforcement procedure is regarded as included in the fees charged by that officer.
C-224/18	02/05/2019	Budimex	Chargeable event	Chargeable event and chargeability of the tax — Time of the supply of the services — Construction and installation work — Taking into account the time of the acceptance of the work stipulated in the contract for the supply of services	Link	66	Point (c) of the first paragraph of Article 66 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, must be interpreted as not precluding, if an invoice relating to the performance of the service supplied is not issued or is issued late, the formal acceptance of that service from being regarded as the time when that service was supplied, where, as in the case in the main proceedings, the Member State provides that VAT is to become chargeable on expiry of a time limit running from the day when the service was supplied, provided, first, that the formality of acceptance was stipulated by the parties in the contract that binds them according to contractual terms reflecting the economic and commercial realities in the field in which the service is supplied and, second, that that formality constitutes the actual completion of the

							service and determines the amount of consideration due, which is for the referring court to ascertain.
C-225/18	02/05/2019	Grupa Lotos	Right to deduct VAT	exclusion from the right to deduct — Purchase of overnight accommodation and catering services — Standstill clause — Accession to the European Union made after accession, to widen the block so that relevant purchases by businesses providing tourism services were also covered by it, was not allowed under Article 176.	Link	168, 172	<p>Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as:</p> <ul style="list-style-type: none"> – precluding national legislation, such as that at issue in the main proceedings, which provides for the scope of an exclusion from the right to deduct value added tax (VAT) to be extended, after the accession of the Member State concerned to the European Union, and which means that a taxable person, providing tourism services, is deprived, from the entry into force of that extension, of the right to deduct VAT paid on the purchase of overnight accommodation and catering services which that taxable person re-invoices to other taxable persons in the context of the provision of tourism services and – not precluding national legislation, such as that at issue in the main proceedings, which provides for the exclusion from the right to deduct VAT paid on the purchase of overnight accommodation and catering services, that exclusion having been introduced before the accession of the Member State concerned to the European Union and maintained thereafter, in accordance with the second paragraph of Article 176 of Directive 2006/112, and which means that a taxable person, who does not provide tourism services, is deprived of the right to deduct VAT paid on the purchase of such overnight accommodation and catering services which that taxable person re-invoices to other taxable persons.
C-235/18	15/05/2019	Vega International Car Transport and Logistic	Exemption	Supply of goods — Exemptions for other activities — Granting and negotiation of credit — Fuel cards	Link	135(1)(b)	Article 135(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that, in circumstances such as those of the case in the main proceedings, the provision of fuel cards by a parent company to its subsidiaries, enabling those subsidiaries to refuel the vehicles they transport, may be classified as a service granting credit which is exempt from value added tax as referred to in that provision.
C-242/18	03/07/2019	UniCredit Leasing	Taxable amount	Taxable amount - Reduction - Principle of tax neutrality - Lease contract rescinded on	Link	90, 1	Article 90 (1) of the VAT Directive must be interpreted as meaning that termination of a leasing contract, a reduction of the tax base to the value added tax calculated on a flat-rate basis by a notice of

				<p>the ground of non-payment of the lease instalments - Post-clearance assessment - Scope - Transactions subject to tax - Supply of goods for consideration - Payment of a 'severance payment' until the end of the term of the contract - Jurisdiction of the Court of Justice</p>		<p>correction on all rents due over the entire duration of the contract, even though this notice would have entered into force and thus constitute a 'stable administrative act' establishing a tax debt under national law.</p> <p>2Article 90 of the VAT Directive must be interpreted as meaning that, in a situation such as that at issue in the main proceedings, the failure to pay part of the rents due under a credit agreement lease for the period from the cessation of payments to the non-retroactive termination of the contract, on the one hand, and the absence of payment of compensation due in the event of early termination of the contract and corresponding to the sum of all unpaid rent until the end of this contract, on the other hand, constitute a case of non-payment liable to fall under the derogation from the obligation to reduce the taxable value added tax base, provided in paragraph 2 of that article, unless the taxable person has a reasonable likelihood that the debt will not be honored, which it is for the national court to verify.</p>	
C-26/18	10/07/2019	Federal Express Corporation Deutsche Niederlassung	Taxable transaction	<p>Customs duties on imports - Creation of a customs debt due to breaches of customs regulations - Taxation - Tax on value added (VAT) - Directive 2006/112 / EC - Article 2 (1) (d) and Article 30 - Import VAT - Chargeable event - Concept of "import" of a good - Requirement for the goods to enter the economic circuit of the European Union - Transport of the goods to a Member State other than that in which the customs debt arose</p>	Link	2 (1) (d) and 30	<p>Articles 2(1)(d) and 30 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that, on the introduction of goods into the European Union, it is not sufficient for there to have been unlawful customs conduct with regard to those goods in a particular Member State, which gave rise to a customs debt on importation in that Member State, to consider that those goods have entered the economic circuit of the Union in that Member State where it is established that they have been transported to another Member State, which is the final destination and where they have been consumed. Value added tax on the importation of those goods is then payable only in that other Member State.</p>
C-265/18	02/05/2019	Jarmuškienė	Special scheme small businesses	<p>Special scheme for small enterprises — Articles 282 to 292 — VAT exemption for small enterprises whose annual turnover is below the fixed</p>	Link	282 to 292	<p>Articles 282 to 292 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that, where a supply, to the same purchaser, comprises two items of immovable property, linked by their nature and coming under a single contract of sale, and the</p>

				threshold — Simultaneous supply of two items of immovable property in a single transaction — Annual turnover limit exceeded in view of the sale price of one of the two items of property — Obligation to pay tax on the total value of the transaction			annual turnover limit serving as a reference for the purposes of applying the special scheme for small enterprises provided for by that directive is exceeded, the taxable person is required to pay tax on the basis of the value of the entire supply in question, that is to say, taking into account the value of both the items of property being supplied, even where taking into account the value of one of those items would not lead to that annual limit being exceeded.
C-273/18	10/07/2019	Kuršu zeme	Right to deduct VAT	Right to deduct input VAT — Article 168 — Goods supply chain — Refusal of the right to deduct on account of that chain's existence — Obligation on the competent tax authority to establish the existence of an abusive practice it is not permissible for the national courts and tax authorities to refuse the right of deduction unless it is shown, in the light of objective evidence, that that right is being relied on for fraudulent or abusive purposes.	Link	168(a)	Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, must be interpreted as meaning that, for the purposes of refusing the right to deduct input value added tax (VAT), the fact that an acquisition of goods took place at the end of a chain of successive sale transactions between several persons and that the taxable person acquired possession of the goods concerned in the warehouse of a person forming part of that chain, other than the person mentioned as supplier on the invoice, is not in itself sufficient to find the existence of an abusive practice on the part of the taxable person or the other persons participating in that chain, the competent tax authority being required to establish the existence of an undue tax advantage obtained by that taxable person or those other persons.
C-275/18	28/03/2019	Vinš	Exemption	Exemption for supplies of goods dispatched or transported to a destination outside the European Union — Condition of exemption laid down by national law — Placing of goods under a particular customs procedure — Proof of placing of goods under the export procedure	Link	131 and 146(1)(a)	Article 146(1)(a) in conjunction with Article 131 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding a national legislative provision from making the exemption from value added tax for goods intended to be exported outside the European Union conditional on the goods being placed under the export customs procedure, in a situation in which it is established that the substantive conditions of exemption, in particular the condition that the goods concerned actually leave the territory of the European Union, are satisfied.

C-278/18	28/02/2019	Sequeira Mesquita	Exemption	Leasing or letting of immovable property — Meaning — Contract for the transfer of the use of land comprising vineyards for agricultural purposes for transfer of the use of land comprising vineyards for agricultural purposes to a company engaged in viticulture, entered into for a period of one year, automatically renewable and under which rent is paid at the end of each year	Link	13B(b) (6th VAT Directive)	Article 13B(b) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment must be interpreted as meaning that the exemption from value added tax on the leasing or letting of immovable property provided for in that provision is applicable to a contract for transfer of the use of land comprising vineyards for agricultural purposes to a company engaged in viticulture, entered into for a period of one year, automatically renewable and under which rent is paid at the end of each year.
C-291/18	20/06/2019	Grup Servicii Petroliere	Exemption	Exemptions related to international transport — Supply of offshore jackup drilling rigs — Concept of ‘vessels used for navigation on the high seas’ — Scope	Link	148(a) and c)	‘Vessels used for navigation on the high seas’ does not apply to the delivery of floating structures, such as self-raising offshore rigs of the type at issue in the main proceedings, which are predominantly used in position immobile, to exploit hydrocarbon deposits at sea.
C-310/16	17/01/2019	Dzivev e.a.	Evidence	Convention on the protection of the European Communities’ financial interests — Criminal proceedings concerning VAT offences — Principle of effectiveness — Taking of evidence — Interception of telecommunications — Authorisation granted by a court that lacks jurisdiction — Taking those interceptions into consideration as evidence — Provisions of national law — Prohibition - Use of evidence obtained in breach of national law for a VAT fraud case	Link	325(1) TFEU	In the light of the principle of effectiveness of the prosecution of value added tax (VAT) offences, it is allowed for a national court to apply a national provision excluding, from a prosecution, evidence such as the interception of telecommunications requiring prior judicial authorisation, where that authorisation was given by a court that lacked jurisdiction, in a situation in which that evidence alone is capable of proving that the offences in question were committed.
C-316/18	03/07/2019	The Chancellor, Masters and Scholars of the	Right to deduct VAT	Deduction of input tax — Management costs of an endowment fund that makes investments with the aim of	Link		Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a taxable person that (i) is carrying out both taxable and exempt activities, (ii) invests the donations and

		University of Cambridge		financing the whole of the taxable person's output transactions — Overheads			endowments that it receives by placing them in a fund and (iii) uses the income generated by that fund to cover the costs of all of those activities is not entitled to deduct, as an overhead, input value added tax paid in respect of the costs associated with that investment.
C-329/18	03/10/2019	Altic	Right to deduct VAT	Procurement of food products — Deduction of input tax — Refusal of deduction — Possibly fictitious supplier — VAT fraud — Requirements relating to knowledge on the part of the purchaser — Obligations of traceability of foodstuffs and identification of the supplier — Registration obligations of operators in the food sector — Effect on the right to deduct VAT	Link	168(a)	<p>1. Member States are not allowed to refuse a taxable person who participates in the food chain the right to deduct input value added tax (VAT) on the sole ground, assuming that it has been duly established, that that taxable person has not complied with his food law obligations, that require the taxable person to identify his suppliers for the purposes of traceability of foodstuffs. Non-compliance with those obligations may, however, constitute one element among others which, taken together and in a consistent manner, tend to show that the taxable person knew or should have known that he was involved in a transaction involving VAT fraud, which it is for the referring court to assess.</p> <p>2. The failure, by a taxable person who participates in the food chain, to ascertain that his suppliers are registered with the competent authorities, to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, is not relevant for the purpose of determining whether the taxable person knew or should have known that he was involved in a transaction involving VAT fraud.</p>
C-388/18	29/07/2019	B (Chiffre d'affaires du revendeur de véhicules d'occasion)	Special scheme small businesses	Special scheme for small undertakings - Special scheme for taxable resellers - Taxable reseller who falls under the profit margin scheme - Annual turnover which determines the applicability of the special scheme for small businesses - Profit margin or payments received	Link	288, 1 and 315	Point 1 of the first paragraph of Article 288 of Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding national legislation or administrative practice under which when calculating the turnover that serves as a measure of the applicability of the special scheme for small businesses to a taxable person who is subject to the special margin scheme for taxable resellers, only the realized profit margin is taken into account in accordance with Article 315 of that Directive. That turnover must be determined on the basis of all amounts received or to be received by that taxable dealer, excluding value added tax
C-4/18 and C-5/18	16/10/2019	Winterhoff	Exemption	Exemptions for certain activities in the public interest — Public postal services —	Link	132(1)a	Providers of services consisting in the service of items of correspondence, who, in their capacity as holders of a national licence permitting them to supply that service are required to effect,

				Directive 97/67/EC — Universal postal service provider — Private operator providing the service of formally serving court or administrative authority documents			in accordance with provisions of national law, the formal service of court or administrative authority documents, must be regarded as 'universal service providers', in accordance with those provisions, so that those services must be exempt from value added tax as services effected by the 'public postal services' under Article 132 (1)(a) of the EU VAT Directive.
C-400/18	20/11/2019	Infohos	Exemption	Exemptions - Services provided by independent groups of persons - Services provided to members and non-members	Link	13a(1)(f) Sixth Directive	Article 13A (1) (f) 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 taxable tax base is to be interpreted in such a way that it complies with a national Provision as opposed to the one in question in the main proceedings, which makes the granting of the VAT exemption conditional on the fact that the independent groupings of persons only provide services to their members, with the result that such groups which also provide services to non-members are fully liable to VAT are, and also for the services provided to their members.
C-410/17	10/01/2019	A Oy	Taxable Transaction	Transactions for consideration — Transactions for consideration constituted partly by services or goods — Demolition contract — Purchase contract for dismantling - Demolition services and disposal of waste materials; Single supply or barter	Link	2(1)(a) and (c) — 14(1) — 24(1)	<ol style="list-style-type: none"> Where, pursuant to a demolition contract, the service provider (demolition company), is required to carry out demolition works and may resell any scrap metal, that contract consists of a supply of services (i.e. the performance of demolition works), and also a supply of goods (i.e. the supply of the scrap metal), if the demolition company attributes a value to that supply of goods, which it factors in when calculating the price quoted for the performance of the demolition works, but only if that supply of goods is made by a taxable person acting as such. Where, pursuant to a purchase contract for dismantling, the purchaser (demolition company) purchases goods to be dismantled and undertakes to demolish or dismantle and dispose of those goods and to dispose of the waste, that contract consists of a supply of goods (i.e., the supply of goods to be dismantled), which is subject to VAT only if it is made by a taxable person acting as such, which is for the referring court to ascertain. In so far as the purchaser is required to demolish or dismantle and dispose of those goods and to dispose of the resulting waste, thereby specifically meeting the needs of the seller, which is for the referring court to ascertain, that contract also includes a supply of services for consideration (i.e. the performance of demolition works or dismantling and waste disposal), if that purchaser attributes a value to that supply of goods which it

							factors in to the price quoted as a factor reducing the purchase price of the goods to be dismantled, which is for the referring court to ascertain.
C-42/18	03/10/2019	Cardpoint	Exemption	Exemptions — Payments — Transactions concerning payments — Concepts — Cash withdrawal from an automated teller machine (ATM) — Service supplied by an undertaking to a bank in circumstances in which the operation of ATMs has been outsourced)	Link	Article 13B(d)(3) (Sixth Directive)	Article 13B(d)(3) of 6th Directive must be interpreted as meaning that the exemption from value added tax which is laid down in that provision for transactions concerning payments and transfers <u>does not apply</u> to supplies of services, such as those at issue in the main proceedings, consisting in operating and maintaining ATMs, replenishing them, installing computer hardware and software in them, sending a withdrawal authorisation request to the bank that issued the bank card used, dispensing money and registering withdrawal transactions, by a service provider to a bank operating an automated teller machine.
C-420/18	13/06/2019	IO (TVA – Activité de membre d'un conseil de surveillance)	Taxable persons	Taxpayer - 'Self-employed' economic activity - Meaning - Activities as a member of the supervisory board of a foundation	Link	9, 10	Articles 9 and 10 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a member of the supervisory board of a foundation, such as the applicant in the main proceedings, who is in no way hierarchically subordinate to the administrative body or the supervisory board of that foundation in the performance of his duties as a member of that board, but does not act in his own name, for his own account or under his own responsibility, but acts for the account and under the responsibility of the same board, nor bears the economic business risk, since he receives a fixed remuneration which is not dependent on his participation in meetings or on the hours actually worked - does not independently carry out an economic activity.
C-434/17	13/02/2019	Human Operator	Right to deduct VAT	Deduction of VAT — Determination of the taxable person liable for VAT — Retroactive application of a derogating measure — Principle of legal certainty	Link	193	European Union law precludes national legislation which provides for the application of a measure derogating from Article 193 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2013/43/EU of 22 July 2013, before the EU act authorising that derogation has been notified to the Member State which requested it, despite the fact that that EU act does not mention the date of its entry into force or the date from which it applies, even if that Member State has expressed the wish for that derogation to apply with retroactive effect.
C-449/17	14/03/2019	A & G Fahrschul-Akademie	Exemption	Exemption for certain activities in the public interest — School or university education — Concept — Driving school	Link	132(1)(i) and (j)	The concept of 'school or university education', within the meaning of Article 132(1)(i) and (j) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, must be interpreted as not covering motor vehicle driving tuition

				tuition provided by a driving school			provided by a driving school, such as that at issue in the main proceedings, for the purpose of acquiring driving licences for vehicles in categories B and C1 referred to in Article 4(4) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences.
C-4/18 C-5/18	16/10/2019	Eisenbeis	Exemption	VAT exemption for formal services. Providers of services consisting in the service of items of correspondence, who, in their capacity as holders of a national licence permitting them to supply that service are required to effect, must be regarded as 'universal service providers', so that those services must be exempt from VAT as services effected by the 'public postal services'.	Link	132(1)a	Article 2(13) and Article 3 of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 must be interpreted as meaning that providers of services consisting in the service of items of correspondence, such as those at issue in the main proceedings, who, in their capacity as holders of a national licence permitting them to supply that service are required to effect, in accordance with provisions of national law, the formal service of court or administrative authority documents, must be regarded as 'universal service providers', in accordance with those provisions, so that those services must be exempt from value added tax as services effected by the 'public postal services' under Article 132(1)(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.
C-531/17	14/02/2019	Vetsch Int. Transporte	Exemption	Exemptions from VAT on importation — Imports followed by an intra-Community transfer — Subsequent intra-Community supply — Tax evasion — Refusal of the exemption — Conditions	Link	143(1)(d)	The exemption from import VAT may not be refused in respect of an importer designated or recognised as liable for payment of that tax, in a situation, such as that in the main proceedings, in which, first, the recipient of the intra-Community transfer of goods effected after that import commits tax evasion in connection with a transaction which is subsequent to that transfer and is not linked to that transfer and, secondly, there is no evidence to support the conclusion that the importer knew or ought to have known that that subsequent transaction entailed tax evasion on the part of the recipient.
C-562/17	14/02/2019	Nestrade	Right to deduct VAT	Arrangements for the refund of value added tax (VAT) — Principles of equivalence and effectiveness — Company not established in the European Union — Preliminary and final decision refusing the refund of	Link	Thirteenth Council Directive 86/560/EEC	The Thirteenth Directive must be interpreted as not precluding a Member State from imposing a time limit on the possibility of rectifying incorrect invoices, for example by the rectification of the VAT identification number originally shown on the invoice, for the purposes of the exercise of the right to a VAT refund, provided that

				VAT — Incorrect VAT identification number			<p>the principles of equivalence and effectiveness are respected, which it is for the referring court to verify.</p> <p><i>Note from the editors: The decision of the ECJ is that Spain was allowed, first of all, to ask for a correction of the invoices, and to set a deadline. As Nestrade did not respond within this deadline, and did not appeal against the decision to deny the VAT refund, also not after it had obtained the correction invoices, it is not unreasonable that the Spanish tax authorities denied the VAT refund request for these invoices when they were submitted the second time.</i></p> <p><i>The case makes it clear that it is very important that a company has the correct invoices when submitting a VAT refund claim, and that the deadlines for submitting a VAT refund request and responding to questions should not be missed.</i></p>
C-566/17	08/05/2019	Związek Gmin Zagłębia Miedziowego	Right to deduct VAT	<p>Deduction of input tax — Principle of VAT neutrality — Taxable person carrying out both economic and non-economic activities — Goods and services acquired for the purpose of carrying out both transactions subject to VAT and transactions not subject to VAT — Lack of apportionment criteria in national legislation — Principle of fiscal legality</p>	Link	168(a)	<p>Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding a national practice which permits a taxable person to deduct in full the input value added tax (VAT) charged in respect of his acquisition of goods and services for the purposes of both economic activities subject to VAT and non-economic activities not falling within the scope of VAT, owing to the lack of specific rules in the applicable tax legislation regarding the criteria and methods of apportionment which would enable that taxable person to determine the share of that input VAT which must be regarded as being connected to his economic and non-economic activities respectively.</p>
C-567/17	28/02/2019	Bene Factum	Excise Duty - Exemptions	<p>Definition of 'products not for human consumption' — Assessment criteria</p>	Link	27(1)(b) of Council Directive 92/83/EEC	<p>1. Article 27(1)(b) of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages must be interpreted as applying to ethyl alcohol that has been denatured in accordance with the requirements of a Member State and is contained in cosmetics or mouthwashes which, although not intended, as such, for human consumption, are nevertheless consumed as alcoholic beverages by certain individuals.</p>

						<p>2. Article 27(1)(b) of Directive 92/83 must be interpreted as applying to ethyl alcohol that has been denatured in accordance with the requirements of a Member State and is contained in cosmetics or mouthwashes which, although not intended, as such, for human consumption, are nevertheless consumed as alcoholic beverages by certain individuals, when the person who imports those products from a Member State in order for them to be supplied to the end consumers in the Member State of destination by other persons, knowing that they are also consumed as alcoholic beverages, has them manufactured and labelled with that in mind in order to increase the sale of those products.</p>	
C-568/17	08/05/2019	Geelen	Place of supply	<p>Service transactions - Place of taxable transactions - Fiscal connecting factor - Interactive erotic web cam sessions broadcast live over the Internet - Entertainment activity - Meaning - Place where the services are actually provided</p>	<p>Link</p>	<p>52, (a) and 56, 1 (k)</p>	<p>The first indent of Article 9(2)(c) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment, as amended by Council Directive 2002/38/EC of 7 May 2002, and Article 52(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a complex service, such as that at issue in the main proceedings, consisting in the provision of live interactive erotic web cam sessions, constitutes an 'entertainment activity' within the meaning of those provisions which must be regarded as 'physically' or 'actually' carried on within the meaning of those provisions at the place where the service provider has established his business or has a fixed establishment from which the service is supplied or, in the absence thereof, the place where he has his permanent address or usually resides.</p> <p>The twelfth indent of Article 9(2)(e) of the Sixth Directive, as amended by Directive 2002/38, and Article 56(1)(k) of Directive 2006/112, read in conjunction with Article 11 of Regulation (EC) No .../2006 of the European Parliament and of the Council of ... on the common system of value added tax (VAT) and on the common system of value added tax (OJ 2006 L 145, p. 1). Council Regulation (EC) No 1777/2005 of 17 October 2005 laying down measures for the implementation of Directive 77/388 must be interpreted as meaning that a service such as that at issue in the main proceedings, consisting in the provision of live interactive erotic web cam</p>

							sessions, does not fall within the scope of those provisions where that service is provided to recipients who are all located in the Member State of the service provider.
C-573/18 & C-574/18	09/10/2019	GmbH & Co. KG. C-eG	Taxable amount	Tax base - Subsidy directly linked to price - Regulation (EC) No 2200/96 - Article 11 (1), and article 15 - Organization of agricultural producers having established an operational fund - Deliveries made by the organization of producers to its members in exchange for payments not covering the entire purchase price - Additional financing paid by the operational fund	Link	11 A (1) (a) of the 6th VAT Directive	Article 11A(1)(a) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment must be interpreted as meaning that, in circumstances such as those in the main proceedings, in which a ‘producer organisation’, within the meaning of Article 11 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruits and vegetables, purchases goods from input suppliers, supplies those goods to its partner members and obtains from them a payment not covering the purchase price, the amount that an operational fund, such as provided for in Article 15 of that regulation, pays to that producer organisation for the supply of those goods to producers is incorporated in the consideration for that supply and must be regarded as a subsidy directly linked to the price of that supply, paid for by a third party.
C-573/18 & C-574/18	09/10/2019	M-eG	Taxable amount	Taxable amount — Subsidy directly linked to price — Regulation (EC) No 2200/96 — Article 11(1) and Article 15 — Producer organisation having set up an operational fund — Deliveries made by the producer organisation to its members in exchange for payments not covering the entirety of the purchase price — Additional financing paid by the operational fund	Link	11(1), 11(A)(1)(a), 15, 20, 27(1) (Sixth VAT Directive)	Article 11A(1)(a) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment must be interpreted as meaning that, in circumstances such as those in the main proceedings, in which a ‘producer organisation’, within the meaning of Article 11 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruits and vegetables, purchases goods from input suppliers, supplies those goods to its partner members and obtains from them a payment not covering the purchase price, the amount that an operational fund, such as provided for in Article 15 of that regulation, pays to that producer organisation for the supply of those goods to producers is incorporated in the consideration for that supply and must be regarded as a subsidy directly linked to the price of that supply, paid for by a third party.

C-597/17	27/06/2019	Belgisch Syndicaat van Chiropraxie and Others	Exemption	<p>Exemptions - Medical and paramedical professions - Chiropractic and osteopathy - Article 98 - Annex III(3) and (4) - Medicinal products and medical devices - Reduced rate - Provision following surgery or treatment having a therapeutic character - Normal rate - Provision following surgery or treatment having an aesthetic character - Principle of fiscal neutrality - Maintenance of the effects of national legislation incompatible with European Union law'.</p> <p>Translated with www.DeepL.com/Translator (free version)</p>	Link	132, 1, c)	<ul style="list-style-type: none"> • Article 132(1)(c) 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 application of the exemption granted therein is not reserved to services provided by members of a medical or paramedical profession regulated by the legislation of the Member State concerned. • Article 98 of Directive 2006/112, read in conjunction with points (3) and (4) of Annex III thereto, must be interpreted as not precluding national legislation which differentiates between, on the one hand, medicinal products and medical devices supplied following surgery or treatment of a therapeutic nature and, on the other hand, medicinal products and medical devices supplied following surgery or treatment of a purely aesthetic nature by excluding the latter from the benefit of the reduced rate of value added tax applicable to the former. • In circumstances such as those at issue in the main proceedings, a national court cannot apply a national provision which allows it to preserve certain effects of an annulled transaction in order to temporarily maintain the effects of national provisions which it has declared incompatible with Directive 2006/112 until they have been brought into line with that directive, in order to reduce the risk of legal uncertainty arising from the retroactive effect of that annulment and also to prevent the application of national legislation which precedes those provisions and is incompatible with that directive.
C-647/17	13/03/2019	Srf konsulterna	Place of supply of services	Supply of services in respect of admission to educational events— Place of taxable transactions	Link	53	Article 53 of the VAT Directive, as meaning that the expression 'services in respect of admission to events' in that provision include a service, such as that at issue in the main proceedings, in the form of a five-day course on accountancy and management which is supplied solely to taxable persons and requires advance registration and payment.
C-653/18	17/10/2019	Unitel	Exemptions	Exemptions on exportation — Concept of 'supply of goods' — Conditions laid down by the Member States — Principle of proportionality — Principle of fiscal neutrality — Evidence — Tax evasion — Practice of a Member State consisting in	Link	146(1)(a) and (b) and 131	Article 146(1)(a) and (b) and Article 131 and the principles of fiscal neutrality and proportionality preclude a national practice, which consists in considering in <u>all</u> cases that there is no supply of goods, within the meaning of that former provision, and in refusing as a result the VAT exemption, where the goods concerned were exported to a destination outside the EU and where, following their exportation, the tax authorities found that the person acquiring

				refusing the right to exemption where the person acquiring the goods exported is not identified		<p>those goods was not the person stated on the invoice issued by the taxable person but another entity which has not been identified.</p> <p>The VAT exemption <u>may only be refused</u> if the failure to identify the person actually acquiring the goods prevents it from being proved that the transaction at issue constitutes an export of goods, or if it is established that that taxable person knew or ought to have known that that transaction was part of a fraud committed to the detriment of the common system of VAT.</p> <p><u>If the VAT exemption is refused</u>, the transaction in question should be considered not to constitute a taxable transaction and, accordingly, will not entitle to deduction of input VAT.</p>
C-691/17	11/04/2019	PORR Építési Kft.	Right to deduct VAT	<p>Right to deduct value added tax (VAT) paid as input tax — Article 199(1)(a) — Reverse charge procedure — Undue payment of the tax by the recipient of services to the suppliers on the basis of an invoice drawn up incorrectly according to the rules on ordinary taxation — Tax authority's decision holding that the recipient of services has an outstanding tax liability and refusing a claim for deduction — No examination by the tax authority of the possibility of reimbursement of the tax</p>	Link	<p>Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, and the principles of fiscal neutrality and effectiveness must be interpreted as not precluding a practice of the tax authority whereby, in the absence of any suspicion of tax evasion, that authority refuses an undertaking the right to deduct the value added tax which that undertaking, as the recipient of services, unduly paid to the supplier of those services on the basis of an invoice drawn up by that supplier in accordance with the rules on the ordinary value added tax (VAT) regime, whereas the relevant transaction fell under the reverse charge mechanism, and where the tax authority did not,</p> <ul style="list-style-type: none"> – examine, prior to refusing the right to deduct, whether the issuer of that incorrect invoice could reimburse the recipient of the invoice the amount of VAT unduly paid and could correct that invoice under a self-correction procedure, in accordance with the applicable national rules, in order to recover the tax which it unduly paid to the Treasury, or – itself decide to reimburse the recipient of that invoice the tax which the recipient unduly paid to the issuer of the invoice and that the latter, subsequently, unduly paid to the Treasury.

							Those principles require, however, in the situation where the reimbursement by the supplier of services to the recipient of those services of the VAT unduly invoiced would be impossible or excessively difficult, in particular in the case of the insolvency of the supplier, that the recipient of the services must be able to address its application for reimbursement to the tax authorities directly.
C-692/17	17/10/2019	Paulo Nascimento Consulting	Exemption	Transactions relating to the granting, negotiation and management of credit — Transactions concerning debts, with the exception of the recovery of debt — Assignment for consideration, to a third party, of a position held in enforcement proceedings for recovery of a debt recognised by a judgment)	Link	135(1)(b) to 135(1)(z)	Article 135(1)(b) 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 laid down by it in respect of transactions concerning the granting, negotiation or management of credit does not apply to a transaction which, for the taxable person, consists in assigning, to a third party, for consideration all the rights and obligations deriving from the taxable person's position in enforcement proceedings for recovery of a debt recognised by a judgment, a debt the payment of which was secured by a right over immovable property awarded to that taxable person and made the subject of attachment.
C-700/17	18/09/2019	Peters	Exemption	Exemptions - Hospital nursing and medical care - Medical care in the context of practicing medical and paramedical professions - No relationship of trust between the health care provider and the patient	Link	132(1)(b) and(c)	(1) Article 132 (1) (b) and (c) of the EU VAT Directive must be interpreted as meaning that medical care services such as those at issue in the main proceedings provided by a medical specialist in clinical chemistry and laboratory diagnostics, may fall under the VAT exemption of Article 132 (1) (c) of this Directive if these services do not meet all the conditions for the exemption in which Article 132 (1) (b) of this Directive. 2) Article 132 (1) (c) of the EU VAT Directive must be interpreted as meaning that the exemption from value added tax set out therein is not subject to the condition that the medical care in question is provided in the context of a relationship of trust between the patient and the care provider.
C-71/18	04/09/2019	KPC Herning	Exemption	Supply of land occupied by a building to be partly demolished in place of which a new building is to be	Link	12, 135(1)(j) and (k)	Article 12(1)(a) and (b), (2) and (3) and Article 135(1)(j) and (k) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a supply of land supporting a building at the date of that supply

				constructed — VAT exemption — Intention of the parties — Objective assessment — Concept of a 'building'		cannot be classified as a supply of 'building land' where that transaction is economically independent of other services and does not form a single transaction with them, even if the parties' intention was that the building should be wholly or partly demolished to make room for a new building.
C-712/17	08/05/2019	EN.SA.	Right to deduct VAT	Fictitious transactions — Impossibility of deducting the tax — Obligation on the issuer of an invoice to pay the VAT indicated thereon — Fine in an amount equal to the amount of the improperly deducted VAT — Whether compatible with the principles of VAT neutrality and proportionality)	Link	<p>1. In a situation, such as that at issue in the main proceedings, in which fictitious circular sales of electricity made between the same traders and for the same amounts did not cause tax losses, Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in the light of the principles of neutrality and proportionality, must be interpreted as not precluding national legislation which excludes the right to deduct value added tax (VAT) relating to fictitious transactions while requiring the persons who enter VAT on an invoice to pay that tax, including for a fictitious transaction, provided that national law allows the tax liability arising from that obligation to be adjusted when the issuer of that invoice, who was not acting in good faith, has, in sufficient time, wholly eliminated the risk of any loss of tax revenue, this being a matter for the referring court to ascertain.</p> <p>2. The principles of proportionality and neutrality of value added tax (VAT) must be interpreted as precluding, in a situation such as that at issue in the main proceedings, a rule of national law under which the unlawful deduction of VAT is penalised by a fine equal to the amount of the deduction made.</p>

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