

Under temporary conditions, rented pallets are not subject to ICL for transporting pallets

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The EU Court of Justice has ruled that the transfer of pallets by CHEP to Romania cannot be regarded as an ICL. It is also important that the pallets are rented in Romania, that the use of the pallets is only temporary and that they are shipped or transported from Belgium.

The Belgian CHEP Equipment Pooling NV rents pallets throughout Europe. CHEP buys pallets for this purpose, which it then rents out to group companies, which in turn sublet them. One of the group companies is CHEP Pooling Services Romania SRL. Pallets returned by CHEP Romania's customers are declared by CHEP Romania for import and the value of the pallets, including VAT, is invoiced to CHEP. CHEP then requests a refund of the VAT charged by a Romanian supplier and CHEP Romania. The Romanian tax authorities refuse to grant the refund. According to the tax authorities, CHEP should have identified for VAT purposes in Romania, because there is an ICL regarding the transfer of pallets purchased in other Member States to Romania. CHEP disagrees. The Romanian court raises preliminary questions in this case.

The EU Court of Justice has ruled that the transfer of pallets by CHEP to Romania cannot be regarded as an ICL. It is also important that the pallets are rented in Romania, that the use of the pallets is only temporary and that they are shipped or transported from Belgium. It is up to the national court to determine whether the pallets have indeed been sent or transported from Belgium to Romania. If this is not the case, there is still an ICL under certain conditions. In addition, it is contrary to EU law for Romania to require VAT refunds to require CHEP to be identified as a taxable person in Romania.

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