

Costs charged by holding company no economic activity

By **Editors** - June 19, 2020



Costs charged by holding company no economic activity

The interested party is a holding company with 100% interests in a number of companies. Interested parties pass on costs to those companies, whereby they charge VAT.

The Tax and Customs Administration has imposed additional assessments because it believes that charging costs is not an economic activity.

According to the Court, it has not been demonstrated that the interested party has added value to the services or that it has done or failed to do anything itself. Nor is it sufficient that the interested party is a statutory director of the companies to which the costs have been charged. The management of an investee is only an economic activity if it involves taxable services. The interested party has failed to demonstrate that the latter situation occurs. The Court rejects the interested party's view that it acted as an entrepreneur in passing on costs.

The Supreme Court declares the appeal in cassation to be unfounded (Section 81 (1) RO).

High Council Court of Justice Court

Authority

High Council

Date of judgment

06/19/2020

Date of publication

06/19/2020

Case number

18/03272

Formal relationships

In cassation on: ECLI: NL: GHARL: 2018: 5626

Jurisdictions

Tax law

Special characteristics

Article 81 RO cases

Cassation

Content indication

HR: 81.1 RO.

Locations

Rechtspraak.nl

Viditax (FutD), 19-06-2020

FutD 2020-1859

Enriched statement

Statement

SUPREME COURT OF THE NETHERLANDS

TAX ROOM

Number 18/03272

Date June 19, 2020

JUDGMENT

in the case of

[X] BV in [Z] (hereinafter: interested party)
against

THE STATE SECRETARY OF FINANCE

to the appeal in cassation against the judgment of the Court of Appeal of Arnhem-Leeuwarden of 19 June 2018, nos. 16/00847 through 16/00849, to the appeal of the interested party and the incidental appeal of the Inspector against a decision of the District Court of Gelderland (Nos. AWB 15/2727, AWB 15/2728 and AWB 15/2754) concerning additional tax assessments in turnover tax imposed on parties over the years 2009, 2010 and 2011 and the related decisions regarding tax interest.

1 Proceedings in cassation

The interested party lodged an appeal in cassation against the judgment of the Court, proposing a number of grounds.

The Secretary of State has lodged a statement of defense.

2 Assessment of resources

The Supreme Court has assessed the resources on the judgment of the Court. The result of this is that these means cannot lead to the annulment of that ruling. The Supreme Court does not have to motivate why it came to this judgment. Indeed, when assessing these

resources, it is not necessary to answer questions relevant to the unity or development of the law (see Article 81 (1) of the Judicial Organization Act).

3 Process costs

The Supreme Court sees no reason to order legal costs.

4 Decision

The Supreme Court declares the appeal in cassation unfounded.

This judgment was delivered by the counsel EN Punt as chairman, and the counsel LF van Kalmthout and ME van Hilten, in the presence of the acting registrar E. Cichowski, and delivered in public on 19 June 2020.

[ECLI: NL: HR: 2020: 1062](#)

Related



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December 1, 2016
In "Court of Justice"



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living space to children of
partners
June 7, 2019
In "Court of Justice"



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December 2, 2011
In "Supreme Court"