

CJEU 09-07-2020 Finanzamt Bad Neuenahr-Ahrweiler C-374/19

By **Editors** - July 9, 2020



CJEU Finanzamt Bad Neuenahr-Ahrweiler judgment

HF is the parent company of a BV that operates a VAT-exempt residential care center. HF has built a cafeteria against this residential care center, which was accessible to visitors via an external entrance and to the residents of that residential care center via its communal dining room.

HF initially stated that it would only use the cafeteria in question for taxable purposes, as this cafeteria was intended for outside guests and not residents of the residential care center, who were expected to remain in the dining room. However, after an initial check, the German tax authorities, which essentially agreed with this statement, considered it unlikely that none of the residents of the residential care center visited the cafeteria and used it with their visitors. For that reason, the parties to the main proceedings have agreed to consider that 10% of the cafeteria in question was used for VAT-exempt transactions. This has led to a review.

After a second check, the tax authorities determined that the BV had no longer sold any goods in the cafeteria and that the exploitation in question had also been deregistered from the commercial register. On the basis of this finding, the tax authorities carried out a further review for those years, as this cafeteria was no longer used at all for transactions for which there is a right to deduct input tax.

After HF unsuccessfully objected to the decision of the tax authorities to impose a second revision, HF brought an appeal.

According to the CJEU, Articles 184, 185 and 187 of the VAT Directive do not preclude a national regulation under which a taxable person who is entitled to deduct pro-rata VAT on the construction of a taxable and exempt transaction designated cafeteria leaning against the residential care center it operates for VAT-exempt transactions is obliged to revise the original VAT deduction when that taxable person ceases to carry out taxable transactions in the premises of that cafeteria insofar as it does exempt transactions has continued to perform in these spaces and he has therefore only used them for these activities.

Operative part Judgment Request

Articles 184, 185 and 187 of Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding a national scheme under which a taxable person who is entitled to a pro-rata deduction of value added tax (VAT) on the construction of a cafeteria intended for both taxable and exempt transactions, which leans against the residential care center that it operates for VAT-related transactions exempt, is obliged to revise the original VAT deduction when this taxable person no longer

carries out taxable transactions in the premises of that cafeteria, insofar as he has continued to perform exempt activities in these areas and he has therefore continued to use them only for these activities.

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In "Review"



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June 16, 2016
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CJEU 30-04-2020 CTT - Correios de Portugal C-661/18
April 30, 2020
In "(Pre) pro rata"
