TOP 10 of the ECJ CASES DECIDED IN 2020

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Rank	CASE	PARTY (SHORT)	CTY	Date of judgment	Link to VATupdate	SUBJECT	FURTHER INFORMATION	Art. In Directive 2006/112	Text of the decision (or questions) - can be used to search for keywords and/or articles
1	C-547/18	Dong Yang Electronics	PL	07/05/2020	Link	Place of Supply of services, Fixed Establishment	Concept of a 'fixed establishment' - Subsidiary of a company of a non-Member State located in a Member State	44	Article 44 of Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2008/8 / EC of 12 February 2008, and Article 11, paragraph 1, and Article 22, paragraph 1, of the implementing Regulation (EU) No o 282/2011 of the Council of 15 March 2011 laying down implementing measures for Directive 2006 / 112, must be interpreted as meaning that the existence, in the territory of a Member State, of a permanent establishment of a company established in a third State cannot be inferred by a service provider solely because this company has a subsidiary there and that this service provider is not required to inquire, for the purposes of such an assessment, of the contractual relations between the two entities.
2	C-621/19	Weindel Logistik Service	SI	08/10/2020	Link	Right to deduct VAT	Import VAT recovery only for owners of goods	168(e)	Article 168 (e) of Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that it precludes the '' granting a right to deduct value added tax (VAT) to an importer when he does not have the goods like an owner and when the costs of upstream importation are non-existent or not are not incorporated in the price of specific

									downstream transactions, or in the price of goods and services supplied by the taxable person in the course of his economic activities.
3	C-43/19	Vodafone Portugal	PT	11/06/2020	Link	Taxable transactions, Taxable amount	Termination fees subject to VAT	2(1)(c), 9, 24, 72 and 73	Article 2(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 amounts received by an economic operator in the event of early termination, for reasons specific to the customer, of a services contract requiring compliance with a tie-in period in exchange for granting that customer advantageous commercial conditions, must be considered to constitute the remuneration for a supply of services for consideration, within the meaning of that provision.

4	C-276/18	KrakVet Marek Batko	HU	18/06/2020	Link	Taxable transactions, Place of supply of goods	Place of supply of goods sold by online retailers cross border - E-Commerce - Notion of transport	7, 13 and 28 to 30, 33(1)	1. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Articles 7, 13 and 28 to 30 of Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax must be interpreted as not precluding the tax authorities of a Member State from being able, unilaterally, to subject transactions to value added tax treatment different from that under which they have already been taxed in another Member State. 2. Article 33 of Directive 2006/112 must be interpreted as meaning that, when goods sold by a supplier established in one Member State to purchasers residing in another Member State are delivered to those purchasers by a company recommended by that supplier, but with which the purchasers are free to enter into a contract for the purpose of that delivery, those goods must be regarded as dispatched or transported 'by or on behalf of the supplier' where the role of that supplier is predominant in terms of initiating and organising the essential stages of the dispatch or transport of those goods, which it is for the referring court to ascertain, taking account of all the facts of the dispute in the main proceedings. 3. EU law and, in particular, Directive 2006/112 must be interpreted as meaning that it is not necessary to find that transactions by which goods sold by a supplier are delivered to purchasers by a company recommended by that supplier constitute an infringement of the law when, on the one hand, there is a connection between the supplier and that company, in the sense that, irrespective of that delivery, the company takes charge of some of the supplier's logistical needs, but, on the other hand, the purchasers remain free to make use of another company or personally collect the goods, since those circumstances are not liable to affect the finding that the supplier and the transport company recommended by it are independent companies which engage, on their own behalf, in genuine economic activities and, consequently, those transactions cannot be classified as abusive.

5	C-430/19	C.F.	RO	04/06/2020	Link	Right to deduct VAT	Right to deduct VAT can not be refused if other evidence than the invoice is missing		1. The general principle of European Union law, namely that the right to effective procedural defense must be observed, must be interpreted as meaning that, in the context of national administrative proceedings for the control and determination of the value added tax base, a taxable person has not been able to access information in the administrative file concerning that person, which were taken into account in the adoption of the administrative decision imposing the additional tax liability on it, the court seised finding that, in the absence of such a defect, the proceedings in question could have resulted in a different outcome, this principle requires that this Decision be repealed. (2) The principles governing the application of the common system of value added tax (VAT) by the Member States, in particular the principle of fiscal neutrality and the principle of legal certainty, must be interpreted as precluding national tax authorities as to whether the economic transactions on the basis of which the tax invoice was issued actually took place, the taxable person receiving that invoice is denied the right to deduct VAT if that person is unable to provide evidence other than that invoice which: they show that the economic transactions actually took place.

6	C-242/19	CHEP Equipment Pooling	RO	11/06/2020	Link	Taxable transactions, Deduction	Transfer of goods is not an intra-Community supply and refusal of a VAT refund due to lack of VAT registration is unjustified	17(2)(g), 170, 171	1) Article 17 (2) (g) of Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax, as amended by Directive 2008/8 / EC of the Council of 12 February 2008 must be interpreted as meaning that the transfer, by a taxable person, of goods from a Member State to the Member State of reimbursement, for the purposes of the service, by this taxable person, of rental services for these goods in the latter Member State, must not be assimilated to an intra-Community supply when the use of the said goods for the purposes of such a service is temporary and they have been dispatched or transported from the Member State in which the said taxable person is established. 2) The provisions of Council Directive 2008/9 / EC of February 12, 2008, defining the modalities for the reimbursement of value added tax, provided for by Directive 2006/112 / EC, in favor of taxable persons who are not not established in the Member State of refund, but in another Member State, must be interpreted as preventing a Member State from refusing the right to a refund of value added tax to a taxable person established in the territory of another Member State for the sole reason that this taxable person is or should have been identified for value added tax in the Member State of refund.
7	C-231/19	Blackrock Investment Management (UK)	UK	02/07/2020	Link	Exemptions	VAT treatment of management services outside scope of the exemption	135(1)(g)	Article 135(1)(g) 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 single supply of management services, provided by a software platform belonging to a third-party supplier for the benefit of a fund management company, which manages both special investment funds and other funds, does not fall within the exemption provided for in that provision.

8	C-215/19	Veronsaajien oikeudenvalvontayksikkö	FI	02/07/2020	Link	Place of supply of services	Colocation services are not “real estate related” services	47, 135(1)(l)	1. Art. 135 (1) (l) of Council Directive 2006/112 / EC of November 28, 2006 on the common VAT system in the version amended by Council Directive 2008/8 / EC of February 12, 2008 is to be interpreted as follows: that hosting services in a data center, within the framework of which their provider provides his customers so that they can accommodate their servers in them, equipment cabinets and, as ancillary service, goods and services such as electricity and various services with which the use of these servers is to be guaranteed under optimal conditions, does not constitute property rental services that are exempt from VAT under this provision, provided that what is to be examined is a matter for the referring court,On the one hand, the service provider does not passively leave an area or a location to his customers and assures them the right to take possession of this area or this location like an owner, and on the other hand, the equipment cabinets do not form an essential part of the building in which they are located , and are not permanently installed there. 2. Art. 47 of Directive 2006/112 as amended by Directive 2008/8 and Art. 31a of Implementing Regulation (EU) No. 282/2011 of the Council of March 15, 2011 laying down implementing provisions for Directive 2006/112 in the As amended by the Council Implementing Regulation (EU) No. 1042/2013 of October 7, 2013, hosting services in a data center, within the framework of which their provider provides customers so that they can accommodate their servers there, equipment cabinets and, as Provides ancillary services, goods and services such as electricity and various services with which the use of these servers is to be guaranteed under optimal conditions, do not constitute services in connection with a property within the meaning of these provisions if,what is to be examined is for the referring court, the customers have no right to exclusive use of the part of the building in which the equipment cabinets are located.

9	C-401/18	Herst s.r.o.	CZ	23/04/2020	Link	Taxable persons, Exemptions	Intra-EU transport of excise goods, Power to dispose of the goods as owner	4(1), 17, 19, 20, 138(1), 138(2)(b)	1. Article 20 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 which carries out a single intra-Community transport of goods under an excise duty suspension arrangement, with the intention of purchasing those goods for the purposes of its economic activity once they have been released for free circulation in the Member State of destination, acquires the right to dispose of the goods as owner, within the meaning of that provision, provided that it has the right to take decisions which are capable of affecting the legal situation of the goods, including, inter alia, the decision to sell them; The fact that that taxable person had, at the outset, the intention to purchase those goods for the purposes of its economic activity once they have been released for free circulation in the Member State of destination is a circumstance which must be taken into account by the national court in its overall assessment of all of the particular circumstances of the case before it in order to determine to which of the successive acquisitions the intra-Community transport is to be ascribed. 2. EU law precludes a national court that is confronted with a provision of national tax law, which has transposed a provision of Directive 2006/112 and is open to several interpretations, from adopting the interpretation that is most favourable to the taxable person by relying on the constitutional principle of in dubio mitius under national law, even after the Court has held that such an interpretation is incompatible with EU law.

10	C-146/19	SCT	SI	11/06/2020	Link	Taxable amount	Bad debt; Reduction taxable amount, definitive non-payment, failure by vendor to take proper steps	90, 273	1) Articles 90 (1) and 273 of Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding the regulation of a tax Member State under which a taxpayer is denied the right to a reduction in the value added tax paid for an irrecoverable debt if he has failed to submit that claim in the bankruptcy proceedings against his debtor, even where that taxpayer demonstrates that that claim would not have been collected if he had submitted it. (2) Article 90 (1) of Directive 2006/112 must be interpreted as meaning that, by virtue of its obligation to take all appropriate measures to ensure the implementation of that provision, the national court in accordance with that provision, or, if such a compliant interpretation is not possible, disapplicable any national legislation the application of which would lead to a result contrary to that provision.