

Issue

On 17 May 2023, the Court of Justice (ECJ) delivered its judgement in the Belgian Cezam case regarding the question whether tax authorities should take deductible VAT into account when imposing proportional fines.

Background

The case concerns a taxpayer who failed to submit periodic VAT returns over an extended period of time. The Belgian Administration imposed fines in proportion to the amount of unpaid VAT, without considering deductible VAT.

The penalties were calculated as 20% of the turnover, according to Belgian VAT law.

Decision

The Court upheld the principle that sanctions should not exceed what is necessary to ensure proper VAT collection.

In determining the sanction, the severity of the offense should be taken into account. Especially when there is no risk of VAT revenue loss (as in the case of reverse charge), the question arises whether the standard policy of imposing 20% penalties is warranted.

To do

Please note that penalties for non-compliance with VAT regulation can be substantial, particularly when calculated as a percentage of the transaction.

Every business transaction (purchase or sale) carries a potential VAT risk, and with proportional penalties (i.e., based on a percentage of the transaction), these risks can accumulate rapidly.

Questions

For questions, please contact: b.kucukali@crowefoeder.nl