



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value added tax

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Brussels, 16 October 2023

**VALUE ADDED TAX COMMITTEE
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)**

INFORMATION PAPER

ORIGIN: Commission

SUBJECT: Case-law – Recent Judgments of the Court of Justice of the European Union

Case-law – Recent Judgments of the Court of Justice of the European Union

	Date	Case number (ECLI)	Parties concerned	Articles	Subject
1	28 February 2023	C-695/20 (EU:C:2023:127)	Fenix International Ltd v Commissioners for Her Majesty's Revenue and Customs	Article 291(2) TFEU, Articles 28 and 397 of Council Directive 2006/112/EC, and Article 9a of Council Implementing Regulation (EU) No 282/2011	Reference for a preliminary ruling – Implementing power of the Council of the European Union – Common system of value added tax – Taxable person, acting in his or her own name but on behalf of another person – Provider of services by electronic means – Presumption – Validity
2	2 March 2023	C-664/21 (EU:C:2023:142)	Nec Plus Ultra Cosmetics AG v Republika Slovenija	Article 138(1) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Exemptions for intra-community transactions – Supply of goods – Principles of tax neutrality, effectiveness and proportionality – Compliance with substantive requirements – Time limit for the submission of evidence
3	9 March 2023	C-42/22 (EU:C:2023:183)	Generali Seguros SA, formerly Global – Companhia de Seguros, SA v Autoridade Tributária e Aduaneira	Articles 135(1)(a) and 136(a) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Exemption from VAT – Exemption of insurance and reinsurance transactions – Exemption of supplies of goods used solely for an exempt activity – Concept of ‘insurance transactions’ – Resale of parts from written-off motor vehicles purchased from insured persons – Principle of fiscal neutrality
4	9 March 2023	C-239/22 (EU:C:2023:181)	État belge, Promo 54 SA v Promo 54 SA, État belge	Articles 12(1) and (2), and 135(1)(j) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Supply, before first occupation, of a building or parts of a building and of the land on which the building stands – No provisions in national law providing for detailed rules for applying the criterion relating to first occupation – Exemptions – Supply, after conversion, of a building which was the subject of a first occupation before the conversion – National administrative legal commentary treating buildings which have undergone substantial conversions in the same way as new buildings

taxud.c.1(2023)11102670
VAT Committee – Information paper

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5	30 March 2023	C-612/21 (EU:C:2023:279)	Gmina O. v Dyrektor Krajowej Informacji Skarbowej	Articles 2(1)(a) and (c), 9(1) and 13(1) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Supply of goods and services for consideration – Meanings of ‘taxable person’ and ‘economic activity’ – Municipality which organises the installation of renewable energy on its territory for its residents who own immovable property and who have expressed the wish to be equipped with renewable energy systems – Their contribution amounting to 25% of the subsidisable costs, without being able to exceed a maximum value agreed between the municipality and the interested property owner – Reimbursement of the municipality by a subsidy from the competent provincial authority of 75% of the subsidisable costs – Municipalities not subject to tax for the activities or transactions carried out as public authorities
6	30 March 2023	C-616/21 (EU:C:2023:280)	Dyrektor Krajowej Informacji Skarbowej v Gmina L.	Articles 2(1)(c), 9(1) and 13(1) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Supply of services for consideration – Meanings of ‘taxable person’ and ‘economic activity’ – Municipality which arranges for asbestos removal for the benefit of its residents who own immovable property and who have expressed the wish for that – Reimbursement of the municipality by a subsidy from the competent provincial authority of 40% to 100% of the costs – Municipalities not subject to tax for the activities or transactions carried out as public authorities
7	20 April 2023	C-282/22 (EU:C:2023:312)	Dyrektor Krajowej Informacji Skarbowej v P. in W.	Articles 14, 15 and 24 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Recharging points for electric vehicles – Provision of devices for recharging electric vehicles, supply of the necessary electricity, and provision of technical support and IT services – Classification as a ‘supply of goods’ or a ‘supply of services’

taxud.c.1(2023)11102670
VAT Committee – Information paper

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8	27 April 2023	C-677/21 (EU:C:2023:348)	Fluvius Antwerpen, v MX	Articles 2(1)(a), 9(1), 14(1) and 2)(a), and 13(1), third subparagraph, and Annex I of Council Directive 2006/112/EC	Reference for a preliminary ruling – Taxable transactions – Concept of ‘supply of goods for consideration’ – Economic activity – Supply of goods – Unlawful consumption of electricity – Principle of neutrality of VAT – Charging the consumer for compensation including the price of the electricity consumed – Regional legislation of a Member State – Taxable person – Sui generis entity mandated by municipalities – Concept of ‘body governed by public law’ – Principle of taxability of electricity distribution – Concept of ‘negligible activity’
9	4 May 2023	C-97/21 (EU:C:2023:371)	MV – 98 v Nachalnik na otdel ‘Operativni deynosti’ – Sofia v Glavna direktsia ‘Fiskalen kontrol’ pri Tsentralno upravlenie na Natsionalna agentsia za prihodite	Article 273 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Failure to issue a fiscal cash register receipt – Charter of Fundamental Rights of the European Union – Article 50 – Principle ne bis in idem – Cumulation of administrative penalties of a criminal nature for the same act – Article 49(3) – Proportionality of penalties – Article 47 – Right to an effective remedy – Scope of judicial review relating to the provisional enforcement of a penalty
10	4 May 2023	C-516/21 (EU:C:2023:372)	Finanzamt X v Y	Article 135(2), first subparagraph, point (c) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Exceptions to the exemption provided for in Article 135(1)(l) – Letting of permanently installed equipment and machinery in the context of the leasing of an agricultural building
11	4 May 2023	C-127/22 (EU:C:2023:381)	‘Balgarska telekomunikatsionna kompania’ EAD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ – Sofia	Article 185 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Adjustment of deductions of input VAT – Goods written off – Subsequent sale as waste – Destruction or disposal duly proved or confirmed

taxud.c.1(2023)11102670
VAT Committee – Information paper

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12	11 May 2023	C-620/21 (EU:C:2023:395)	MOMTRADE RUSE OOD v Direktor na Direktsia « Obzhalvane i danachno-osiguritelna praktika » Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite	Article 132(1)(g) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Exonérations des prestations de services étroitement liées à l'aide et à la sécurité sociales, effectuées par des organismes reconnus comme ayant un caractère social par l'État membre concerné – Prestations de services fournies à une personne non assujettie dans un État membre autre que celui de l'établissement du prestataire – Appréciation de la nature des prestations et de la condition d'organisme reconnu comme ayant un caractère social – Détermination du droit national pertinent – Notion d'«État membre concerné»
13	17 May 2023	C-365/22 (EU:C:2023:415)	IT v État belge SA CEZAM v État belge	Article 311 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Margin scheme – Concept of 'second-hand goods' – End-of-life vehicles sold for parts
14	17 May 2023	C-418/22 (EU:C:2023:418)	SA CEZAM v État belge	Article 273 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Obligations to declare and pay VAT – Penalties laid down for the failure of a taxable person to comply with the obligations – Principles of proportionality and neutrality of VAT – Right to deduct VAT – Compatibility of penalties
15	24 May 2023	C-690/22 (EU:C:2023:440)	Shortcut – Consultadoria e Serviços de Tecnologias de Informação Lda v Autoridade Tributária e Aduaneira	Articles 178(a) and 226(6) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Droit à déduction – Modalités d'exercice – Mentions devant obligatoirement figurer sur la facture – Étendue et nature des services rendus – Factures comportant une description générique des services fournis
16	25 May 2023	C-114/22 (EU:C:2023:430)	Dyrektor Izby Administracji Skarbowej w Warszawie v W. sp. z o.o. SOLE-MiZo Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága	Articles 167, 168(a), 178(a) and 273 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Right to deduct VAT – Refusal – Refusal based on the invalidity of the transaction under national civil law
17	20 June 2023	C-426/22 (EU:C:2023:517)	SOLE-MiZo Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága	Article 183 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Principes d'effectivité et de neutralité fiscale – Déduction de la taxe payée en amont – Remboursement de l'excédent – Calcul des intérêts dus en raison de l'indisponibilité d'un excédent de TVA déductible retenu en violation du droit de l'Union – Dépréciation monétaire

taxud.c.1(2023)11102670
VAT Committee – Information paper

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18	29 June 2023	C-108/22 (EU:C:2023:522)	Dyrektor Krajowej Informacji Skarbowej C. sp. z o.o., in liquidation	Article 306 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Special scheme for travel agents – Scope – Consolidator of accommodation services which purchases such services on its own behalf and resells them to other professionals without ancillary services
19	29 June 2023	C-232/22 (EU:C:2023:530)	Cabot Plastics Belgium SA État belge	Article 44 of Council Directive 2006/112/EC and Article 11(1) of Council Implementing Regulation (EU) No 282/2011	Reference for a preliminary ruling – Provision of services – Point of reference for tax purposes – Concept of ‘fixed establishment’ – Suitable structure in terms of human and technical resources – Ability to receive and use the services for the fixed establishment’s own needs – Provision of tolling services and ancillary services – Exclusive contractual undertaking between a company providing services in a Member State and the company receiving those services established in a third State – Legally independent companies
20	13 July 2023	C-615/21 (EU:C:2023:573)	Napfény-Toll Kft. Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága	Principles of legal certainty and effectiveness	Reference for a preliminary ruling – National legislation providing for the possibility of suspending, without any temporal limit, the limitation period for action by the tax authorities in the event of court proceedings – Repeated tax procedures – Regulation No 2988/95 – Scope – Principles of legal certainty and effectiveness of EU law
21	13 July 2023	C-180/22 (EU:C:2023:565)	Finanzamt Hamm Harry Mensing	Article 311 et seq. of Council Directive 2006/112/EC	Reference for a preliminary ruling – Special arrangements for works of art – Margin scheme – Taxable dealers – Supply of works of art by creators or their successors in title – Intra-Community transactions – Right to deduct input tax
22	13 July 2023	C-344/22 (EU:C:2023:580)	Gemeinde A Finanzamt	Article 2(1)(c) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Supply of services for consideration – Bodies governed by public law – Municipality collecting a spa tax for the provision of spa facilities accessible to everyone

taxud.c.1(2023)11102670
VAT Committee – Information paper

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23	7 September 2023	C-461/21 (EU:C:2023:632)	SC Cartrans Preda SRL v Direcția Generală Regională a Finanțelor Publice Ploiești – Administrația Județeană a Finanțelor Publice Prahova	Articles 86(1)(b) and (2), and 144 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Exemptions – Road carriage transactions directly connected with the import of goods – Rules of evidence – Freedom to provide services – Recovery of VAT by a non-resident – Taxation of consideration paid by way of a tax on the income of non-resident persons – Tax withheld at source by a resident
24	7 September 2023	C-453/22 (EU:C:2023:639)	Michael Schütte v Finanzamt Brilon	Article 168(a) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Principle of VAT neutrality – Principle of effectiveness – VAT rate set too high on a purchase invoice – Reimbursement of the overpaid tax – Direct action against the tax authorities – Effect of the risk of a double reimbursement of the same VAT
25	5 October 2023	C-146/22 (EU:C:2023:739)	YD v Dyrektor Krajowej Informacji Skarbowej	Articles 2(1)(a) and (c), 14(1), 24(1) and 98, and points (1) and (12a) of Annex III of Council Directive 2006/112/EC	Reference for a preliminary ruling – Discretionary power of the Member States to apply a reduced rate to certain supplies of goods and services – Similar foodstuffs prepared from the same main ingredient – Hot beverages prepared on the basis of milk – Application of different reduced VAT rates – Goods with the same objective characteristics and properties – Goods accompanied by preparation and serving services on the part of the supplier or not accompanied by such services
26	5 October 2023	C-355/22 (EU:C:2023:737)	Osteopathie Van Hauwermeiren BV v Belgische Staat	Article 132(1)(c) of Council Directive 2006/112/EC	Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Maintenance of the effects of national legislation incompatible with EU law
27	5 October 2023	C-505/22 (EU:C:2023:731)		Article 2(1)(a) and second paragraph of Article 16 of Council Directive 2006/112/EC	Reference for a preliminary ruling – Taxation – Value added tax (VAT) – Taxable transactions – Supply of goods for consideration – Free supply of a tablet or smartphone in exchange for a new subscription to a magazine – Concept of ‘single supply’ – Criteria – Application of goods for business use as gifts of small value