

RECENT ECJ & GENERAL COURT

# VAT Jurisprudence

Implications for EU compliance

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VATupdate.com postings  
1 August – 30 September 2026

Judgments • AG Opinion • Questions • New registrations •  
Implementation reactions



## INTRODUCTION

## Scope and reading guide

### Why this matters

**Court decisions shape both substantive VAT outcomes and the evidence required to exercise VAT rights in practice.**

#### Judgments & orders

Five judgments, all delivered in September

#### AG Opinions

Deduction timing and invoice possession

#### Questions released

Refunds, land, vehicles, adjustments and fixed establishments

#### Infringements

Spanish SME scheme and VAT rates

#### New registrations

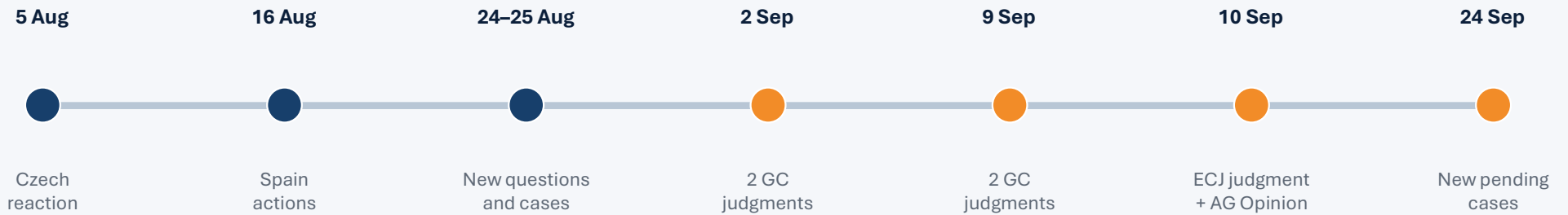
Cases to add to the litigation tracker

#### Market reactions

Czech interim position and financial-services commentary

## REPORTING PERIOD

## Two months at a glance



### August

No substantive VAT judgment identified; strong flow of references, actions and reactions.

### September

Five judgments plus one AG Opinion, with immediate process implications.

## JUDGMENTS

## Five judgments, four recurring compliance themes

**C-565/24**

TOMS &amp; negative margin

Travel / promotion

**T-366/25**

Split TOGC

Restructuring

**T-614/25**

Chain transport

Cross-border goods

**T-397/25**

Retained property

Adjustments

**T-413/25**

National TOGC limits

Direct effect

**Common thread**

**Transaction-specific facts prevail over labels, later steps, overall profitability or domestic classifications.**

**Compliance response**

- Document the operative facts
- Align ERP logic to legal tests
- Retain audit-ready evidence

P-GMBH &amp; CO. KG

## C-565/24 | Promotional excursions fall within TOMS

### DECISION

## Special scheme applies; a negative margin does not create a VAT refund.

### Court's test

Own-name supply of third-party travel services; travel had a distinct consumer purpose.

### What did not matter

Formal business label, cross-subsidy from goods sales or structural loss-making.

### Compliance action

Review promotional travel and event models. Configure transaction-level margins and prevent input VAT recovery on qualifying third-party travel inputs.

[Open VATupdate.com case page →](#)



SZYTELBIECKA

## Article 19 | Each legal transfer must stand on its own



T-366/25

### Two half-shares ≠ one transferred business

- Donations and later partnership contributions were separate transactions.
- Each recipient had to receive an autonomous economic unit.
- Later aggregation could not cure the first-step deficiency.

#### Compliance action

Test TOGC status at every legal step. Evidence the assets, contracts, rights and resources received by each transferee.

[Open VATupdate.com case page →](https://vatupdate.com)

## TRADING 4

## T-614/25 | Excise movement does not allocate VAT transport

### The decisive question

**To which supply is the single intra-Community movement attributable?**

#### Evidence hierarchy

Disposal rights • transport control • contractual terms • actual conduct

#### Compliance action

Do not rely on excise documentation, physical departure or triangular simplification alone. Preserve the complete commercial and logistics file.

[Open VATupdate.com case page →](#)



## Retained assets and national limits under Article 19

### T-397/25 | A&P Deco

Retained property was not transferred with the business. The transferor's VAT-exempt lease changed the use of that property and triggered an adjustment.

#### ACTION

Separate transferred and retained assets. Keep capital-goods schedules with the owner and model the post-deal lease before closing.

### T-413/25 | Peckeger

Austria could not narrow Article 19 by reference to domestic income categories. The relevant test is whether an operational economic unit is transferred.

#### ACTION

Challenge domestic exclusions against EU law, while documenting operational continuity and the transferee's intention to continue.

[A&P Deco on VATupdate.com](#)

[Peckeger on VATupdate.com](#)

## ADVOCATE GENERAL OPINION

## C-167/26 (RX) | When may input VAT be deducted?



- 1 Chargeable event
- 2 Invoice issued
- 3 **Invoice received**
- 4 Deduction exercised

### AG view

Deduction belongs to the period in which supply and invoice possession coincide.

[Open VATupdate.com AG analysis →](https://vatupdate.com/AG-analysis/)

## MEMBER STATE REACTION

## Czech administration keeps the invoice-possession rule

## INTERIM POSITION

**The reviewed General Court answer is not yet applied while the ECJ review remains pending.**

**Invoice received  
later  
→ deduct later**

**System requirement**

Retain issue, transmission, receipt, validation and posting timestamps.

**Control requirement**

Prevent back-period deduction where invoice receipt occurred later.

**Governance requirement**

Track national interim positions until the ECJ review judgment.

*Commentary referenced by VATupdate.com: LeitnerLeitner and Danovsky.cz*

[Open VATupdate.com article →](#)

## COMMISSION ACTIONS

## Spain | Two infringement actions to monitor

### C-504/26 | SME VAT scheme

**ALLEGATION**

Failure to adopt or communicate measures implementing Directive (EU) 2020/285.

**BUSINESS IMPACT**

Do not assume cross-border SME exemption availability solely from the EU application date. Validate supplier status and Spanish implementation.

[C-504/26 on VATupdate.com](#)

### C-512/26 | VAT rates reform

**ALLEGATION**

Failure to adopt or communicate measures implementing Directive (EU) 2022/542.

**BUSINESS IMPACT**

Continue to determine Spanish VAT rates from enacted national law and effective dates. The action does not itself implement a rate.

[C-512/26 on VATupdate.com](#)

## QUESTIONS RELEASED

## Procedural rights and taxable-person status

### T-407/26 | Wagner Sport Signage

EU VAT refund application rejected in full because one invoice lacked a VAT ID or tax reference.

#### COURT ASKED

May the claim be treated as not submitted? Must the authority request more information or process the valid part?

#### WATCH

Neutrality, effectiveness, proportionality and good administration.

[Wagner case page](#)

### T-518/26 | Wlecka

Inherited land had previously been leased, but the owner did not act like a professional developer or trader.

#### COURT ASKED

Does the prior long-term lease make the later sale an economic activity under Article 9(1)?

#### WATCH

Asset allocation, development, subdivision and marketing conduct.

[Wlecka case page](#)

## QUESTIONS RELEASED

## Emerging operating-model questions

### T-537/26 | M Car Sofia

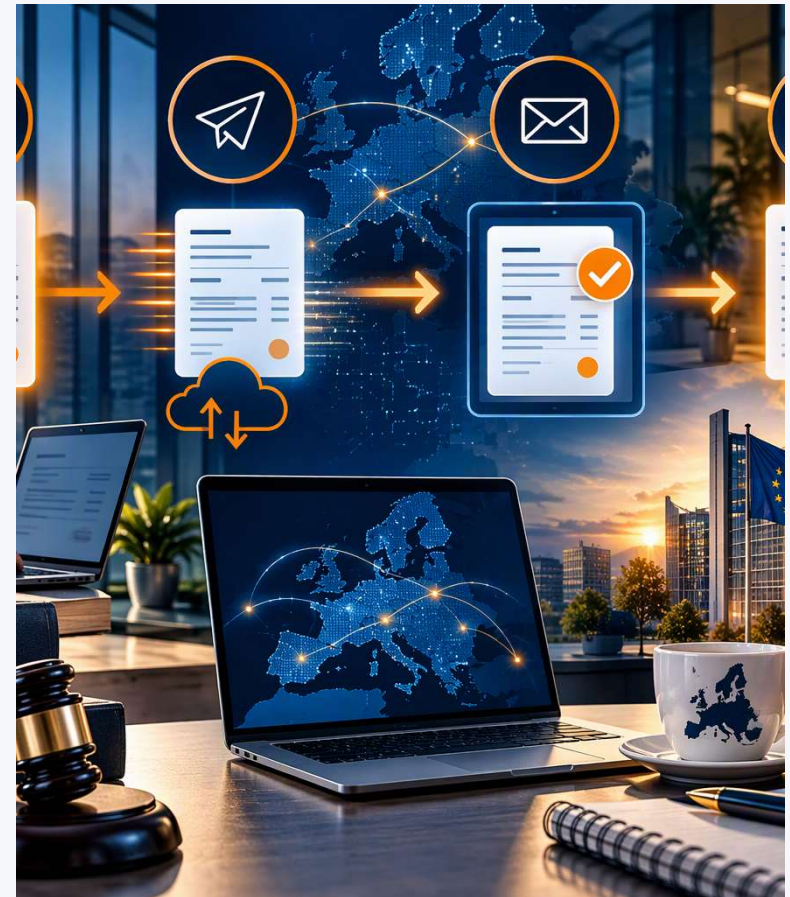
Second-hand vehicle margin scheme: who supplied the vehicle, and what amount is the statutory purchase price?

### T-548/26 | Finanzamt Freising

Can a EUR 1,000 threshold block an input VAT adjustment when a farmer leaves the flat-rate scheme?

### German fixed-establishment reference

Can automated equipment form a fixed establishment without the taxable person's own permanently present personnel?

[M Car Sofia](#)[Finanzamt Freising](#)

## LITIGATION PIPELINE

## New registrations | Monitor, do not speculate

**C-978/26 | Rompetrol Rafinare**

ECJ • VAT case registered  
Facts or questions not yet released

**T-519/26 | Liège Cargo Agency**

GC • VAT case registered  
Facts or questions not yet released

**T-520/26 | Frexport**

GC • VAT case registered  
Facts or questions not yet released

**T-540/26 | Fumanko**

GC • VAT case registered  
Facts or questions not yet released

**T-555/26 | Gemeinde A**

GC • VAT case registered  
Facts or questions not yet released

**T-575/26 | Société Ecurie HZ**

GC • VAT case registered  
Facts or questions not yet released

**Tracker rule: record the case, court, Member State, lodging date and publication status. Add technical analysis only when substantive material is released.**

## COMMENTARY AND MARKET REACTION

## Implementation signals beyond the judgment date

### Czech Republic | Invoice possession

Administration maintains existing deduction timing while C-167/26 (RX) is pending.

#### WHY IT MATTERS

A court development can create divergent interim practice before the final answer. Country guidance must be tracked alongside EU litigation.

[Czech reaction](#)

### Financial services | Credit management

VATupdate.com commentary on T-184/25 highlights taxable post-assignment credit management and potential irrecoverable VAT for SPVs.

#### WHY IT MATTERS

Older judgments can generate later implementation and market consequences requiring contract and pricing reviews.

[Credit management commentary](#)

## PRACTICAL TAKEAWAYS

## Priority actions for EU VAT compliance teams

- |          |                         |                                                                         |          |                            |                                                                    |
|----------|-------------------------|-------------------------------------------------------------------------|----------|----------------------------|--------------------------------------------------------------------|
| <b>1</b> | <b>TOGC</b>             | Reassess divided ownership, retained property and national exclusions.  | <b>2</b> | <b>Cross-border goods</b>  | Strengthen evidence for transport attribution and disposal rights. |
| <b>3</b> | <b>Deduction timing</b> | Preserve invoice-receipt timestamps and country-specific rules.         | <b>4</b> | <b>Special schemes</b>     | Review TOMS and second-hand margin configurations.                 |
| <b>5</b> | <b>Refunds</b>          | Validate invoice-level fields and preserve procedural-rights arguments. | <b>6</b> | <b>Operating footprint</b> | Map automated assets and outsourced local resources.               |
| <b>7</b> | <b>Rates &amp; SME</b>  | Monitor Spanish implementation while applying enacted law.              | <b>8</b> | <b>Governance</b>          | Update the litigation tracker and assign case owners.              |

**E-invoicing and real-time reporting preserve evidence; they do not change substantive VAT conditions.**

## THREE SIGNALS

### 1 Facts over labels

Transaction-specific evidence remains decisive.

### 2 Procedure is substance in practice

Timing, completeness and documentation determine whether rights can be exercised.

### 3 Operating models are evolving

Automation, asset transfers and digital flows are generating the next VAT disputes.

**Monitor EU jurisprudence together with national guidance, audit practice and market commentary.**

