



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

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**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	7 March 2017	C-390/15 (EU:C:2017:174)	Rzecznik Praw Obywatelskich (RPO) other parties: Marszałek Sejmu Rzeczypospolitej Polskiej, Prokurator Generalny	Article 98(2) and Annex III, point 6, of Directive 2006/112/EC	Procedure — Amendment of a proposal for a Council directive after the Parliament has given an opinion — No fresh consultation of the Parliament — Reduced rate of VAT precluded from being applied to the supply of digital books electronically — Principle of equal treatment — Comparability of two situations — Supply of digital books electronically and on all physical means of support
2	9 March 2017	C-573/15 (EU:C:2017:189)	État belge ν Oxycure Belgium SA	Article 98(2) and Annex III, points 3 and 4, of Directive 2006/112/EC	Principle of fiscal neutrality — Medical treatment using oxygen — Reduced VAT rate — Oxygen cylinders — Standard rate of VAT — Oxygen concentrators
3	16 March 2017	C-493/15 (EU:C:2017:219)	Agenzia delle Entrate ν Marci Identi	Articles 2 and 22 of the Sixth VAT Directive	Article 4(3) TEU — State aid — Procedure discharging bankrupt natural persons from debts (esdebitazione) — Ineligibility of VAT debts
4	16 March 2017	C-211/16 (EU:C:2017:221)	Bimotor SpA ν Agenzia delle Entrate - Direzione Provinciale II di Torino	Article 183 of Directive 2006/112/EC	Principle of fiscal neutrality — National legislation laying down a fixed maximum ceiling limiting the amount of refund or compensation of credit or excess value added tax

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5	26 April 2017	C-564/15 (EU:C:2017:302)	Tibor Farkas v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága	Article 199(1)(g) of Directive 2006/112/EC	Plea alleging infringement of EU law raised by the Court of its own motion — Principles of equivalence and effectiveness — Common system of value added tax — Right to deduct input tax — Reverse charge system — Application only in the case of immovable property — Undue payment of the tax by the purchaser of property to the seller as a result of an incorrectly drawn up invoice — Tax authority's decision holding that the property purchaser has an outstanding tax liability, refusing payment of the deduction sought by the purchaser, and imposing a penalty tax
6	4 May 2017	C-274/15 (EU:C:2017:333)	European Commission v Grand Duchy of Luxembourg	Articles 14(2)(c), 28, 132(1)(f), 168(a) and 178(a) of Directive 2006/112/EC	Exemption from VAT of supplies of services by independent groups of persons to their members — Right of deduction for the members of the group — Actions of a member in his own name and on behalf of the group
7	4 May 2017	C-699/15 (EU:C:2017:344)	Commissioners for Her Majesty's Revenue & Customs v Brockenhurst College	Article 132(1)(i) of Directive 2006/112/EC	Exemptions — Supply of restaurant and entertainment services by an educational establishment to a limited public in return for consideration
8	4 May 2017	C-33/16 (EU:C:2017:339)	A Oy	Article 148(d) of Directive 2006/112/EC	Exemption — Supply of services to meet the direct needs of vessels used for navigation on the high seas — Loading and unloading of cargo by a subcontractor on behalf of an intermediary

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9	11 May 2017	C-36/16 (EU:C:2017:361)	Minister Finansów v Posnania Investment SA	Articles 2(1)(a) and 14(1) of Directive 2006/112/EC	Taxable transactions — Meaning of ‘supply of goods for consideration’ — Transfer to the State or to a local authority of immovable property in order to settle a tax debt — Not included
10	11 May 2017	C-286/16 (EU:C:2017:368)	SC Exmitiani SRL v Directia Regională Generală a Finanțelor Publice Cluj	N/A	Activité de transport routier de personnes – Imposition – Faits antérieurs à l’adhésion de la Roumanie à l’Union européenne – Incompétence manifeste de la Cour <i>(no translation into English available)</i>
11	18 May 2017	C-624/15 (EU:C:2017:389)	‘Litdana’ UAB v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos	Article 314 of Directive 2006/112/EC	Margin scheme — Conditions under which it is applicable — Refusal by the national tax authorities to grant a taxable person the right to apply the margin scheme — References on the invoices relating both to the application of the margin scheme by the supplier and to exemption from VAT — Margin scheme not applied by the supplier to the supply — Indications giving grounds for suspecting an infringement or fraud in the supply

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12	18 May 2017	C-154/16 (EU:C:2017:392)	‘Latvijas Dzelzceļš’ VAS v Valsts ienemumu dienests	Articles 2(1), 70, 71, 201, 202 and 205 of Directive 2006/112/EC	Community Customs Code — Regulation (EEC) No 2913/92 — Article 94(1) and Article 96 — External Community transit procedure — Liability of the principal — Articles 203, 204 and Article 206(1) — Incurrence of a customs debt — Unlawful removal from customs supervision — Non-fulfilment of one of the obligations flowing from the use of a customs procedure — Total destruction or irretrievable loss of the goods as a result of the actual nature of the goods or unforeseeable circumstances or force majeure — Article 213 — Payment of the customs debt under joint and several liability — Value added tax (VAT) — Chargeable event and chargeability of the tax — Persons liable for payment of the tax — Finding by the customs office at the destination of a freight deficit — Lower unloading device of a wagon-tank incorrectly closed or damaged
13	1 June 2017	C-571/15 (EU:C:2017:417)	Wallenborn Transports SA v Hauptzollamt Gießen	Articles 61 and 71(1) of Directive 2006/112/EC	External transit procedure — Goods transported through a free port located in a Member State — Legislation of that Member State excluding free ports from its national fiscal territory — Removal from customs supervision — Incurrence of a customs debt and chargeability of VAT
14	14 June 2017	C-26/16 (EU:C:2017:453)	Santogal M-Comércio e Reparação de Automóveis Lda v Autoridade Tributária e Aduaneira	Article 138(2)(a) of Directive 2006/112/EC	Conditions for the grant of the exemption for an intra-Community supply of a new means of transport — Purchaser’s residence in the Member State of destination — Temporary registration in the Member State of destination — Risk of tax evasion — Good faith of the vendor — Obligation of diligence on the part of the vendor

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15	14 June 2017	C-38/16 (EU:C:2017:454)	Compass Contract Services Limited v Commissioners for Her Majesty's Revenue and Customs	N/A	Repayment of overpaid VAT — Right to deduct VAT — Procedures — Principles of equal treatment and fiscal neutrality — Principle of effectiveness — National legislation introducing a limitation period
16	29 June 2017	C-288/16 (EU:C:2017:502)	‘L.Č.’ IK v Valsts ienemumu dienests	Article 146(1)(e) of Directive 2006/112/EC	Exemptions on exportation — Supply of services directly connected with the exportation or the importation of goods — Meaning
17	6 July 2017	C-254/16 (EU:C:2017:522)	Glencore Agriculture Hungary Kft., formerly Glencore Grain Hungary Kft., v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság	Article 183 of Directive 2006/112/EC	Principle of fiscal neutrality — Deduction of input tax — Refund of overpaid VAT — Investigation procedure — Fine imposed on the taxable person in the course of such a procedure — Extension of the period within which the refund must be made — Exclusion of payment of default interest
18	6 July 2017	C-392/16 (EU:C:2017:519)	Dumitru Marcu v Agenția Națională de Administrare Fiscală (ANAF) — Direcția Generală Regională a Finanțelor Publice București	Article 199(1)(c) of Directive 2006/112/EC	No VAT registration — Reverse charge — Hypothetical nature of the question referred — Inadmissibility of the question referred

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19	13 July 2017	C-633/15 (EU:C:2017:544)	London Borough of Ealing v Commissioners for Her Majesty’s Revenue and Customs	Article 133 of Directive 2006/112/EC	Exemptions of supplies of services closely linked to sport — Exclusion of the exemption in the event of a risk of distortion of competition to the disadvantage of commercial enterprises subject to VAT — Services supplied by non-profit making organisations governed by public law
20	26 July 2017	C-386/16 (EU:C:2017:599)	‘Toridas’ UAB v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos	Article 138(1) of Directive 2006/112/EC	Classification of a transaction as an intra-Community supply — Exemption of intra-Community supplies of goods — Intention of the person acquiring the goods to resell them to a taxable person in another Member State before they are taken out of the first Member State — Possible effect of some of the goods being processed before they are dispatched
21	14 September 2017	C-132/16 (EU:C:2017:683)	Direktor na Direksia ‘Obzhalvane i danachno- osiguritelna praktika’ — Sofia v ‘Iberdrola Inmobiliaria Real Estate Investments’ EOOD	Articles 26(1)(b), 168 and 176 of Directive 2006/112/EC	Deduction of input tax — Services relating to construction or improvement of a property belonging to a third party — Use of services by the third party and by the taxable person — Service supplied free of charge to the third party — Entry of costs incurred for services carried out in the accounts as part of the taxable person’s general costs — Determination of the existence of a direct and immediate link with the economic activity of the third party or the economic activity of the taxable person
22	21 September 2017	C-326/15 (EU:C:2017:719)	‘DNB BANKA’ AS v Valsts ienemumu dienests	Article 132(1)(f) of Directive 2006/112/EC	Exemptions for certain activities in the public interest — Exemption for the supply of services by independent groups of persons for their members — Applicability to financial services

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23	21 September 2017	C-605/15 (EU:C:2017:718)	Minister Finansów v Aviva Towarzystwo Ubezpieczeń na Życie S.A. w Warszawie	Article 132(1)(f) of Directive 2006/112/EC	Exemptions for certain activities in the public interest — Exemption for the supply of services by independent groups of persons for their members — Applicability to insurance
24	21 September 2017	C-616/15 (EU:C:2017:721)	European Commission v Federal Republic of Germany	Article 132(1)(f) of Directive 2006/112/EC	Exemption for services supplied to their members by independent groups of persons — Restriction to independent groups whose members exercise a limited number of professions
25	21 September 2017	C-441/16 (EU:C:2017:712)	SMS group GmbH v Directia Generală Regională a Finanțelor Publice București	Articles 2 to 6 of the Eighth Directive 79/1072/EEC, read in conjunction with Article 170 of Directive 2006/112/EC	Taxable person residing in another Member State — Refund of VAT charged on imported goods — Conditions — Objective elements confirming the intention of the taxable person to use the imported goods in the course of his economic activities — Serious risk of non-completion of the transaction that justified the importation
26	4 October 2017	C-164/16 (EU:C:2017:734)	Commissioners for Her Majesty's Revenue & Customs v Mercedes-Benz Financial Services UK Ltd	Article 14(2)(b) of Directive 2006/112/EC	Supply of goods — Motor vehicles — Finance lease with an option to purchase

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27	4 October 2017	C-273/16 (EU:C:2017:733)	Agenzia delle Entrate v Federal Express Europe Inc.	Articles 86(1)(b) and 144 of Directive 2006/112/EC	Exemption from VAT — Relief from import duties for goods of negligible value or of a non-commercial character — Exemption of the supply of services relating to the importation of goods — National legislation levying VAT on the transport costs of documents and goods of negligible value despite their being ancillary to non-taxable goods
28	12 October 2017	C-262/16 (EU:C:2017:756)	Shields & Sons Partnership v Commissioners for Her Majesty's Revenue and Customs	Articles 296(2) and 299 of Directive 2006/112/EC	Common flat-rate scheme for farmers — Exclusion from the common scheme — Conditions — Concept of 'category of farmers'
29	12 October 2017	C-404/16 (EU:C:2017:759)	Lombard Ingatlan Lízing Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság	Article 90 of Directive 2006/112/EC	Direct effect — Taxable amount — Reduction in the case of cancellation or refusal — Reduction in the case of total or partial non-payment — Distinction — Financial leasing agreement terminated for non-payment of public charges
30	19 October 2017	C-101/16 (EU:C:2017:775)	SC Paper Consult SRL v Directia Regională a Finanțelor Publice Cluj-Napoca, Administrația Județeană a Finanțelor Publice Bistrița- Năsăud	Article 273 of Directive 2006/112/EC	Right to deduct — Conditions governing the exercise of that right — National measures — Fight against tax evasion and tax avoidance — Invoice issued by a taxpayer declared 'inactive' by the tax authorities — Risk of tax evasion — Refusal of the right to deduct — Proportionality — Refusal to take into account evidence of the absence of tax evasion or tax losses — Limitation of the temporal effects of the judgment to be delivered — No limitation

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31	19 October 2017	C-303/16 (EU:C:2017:773)	Solar Electric Martinique v Ministre des Finances et des Comptes publics	Articles 5(5) and 6(1) of the Sixth VAT Directive and Articles 14(3) and 24(1) of Directive 2006/112/EC	Works of construction — French overseas departments — Provisions rendered applicable by national law — Transactions consisting in sale and installation on buildings — Classification as a single transaction — Lack of jurisdiction
32	26 October 2017	C-90/16 (EU:C:2017:814)	The English Bridge Union Limited v Commissioners for Her Majesty's Revenue & Customs	Article 132(1)(m) of Directive 2006/112/EC	Exemption for supplies of services closely linked to sport — Definition of 'sport' — Activity characterised by a physical element — Duplicate bridge
33	26 October 2017	C-534/16 (EU:C:2017:820)	Finančné riaditeľstvo Slovenskej republiky v BB construct s. r. o.	Article 273 of Directive 2006/112/EC	Inclusion in the register of taxable persons for VAT — National law requiring provision of a guarantee — Combating fraud — Charter of Fundamental Rights of the European Union — Freedom to conduct a business — Principle of non-discrimination — Principle ne bis in idem — Principle of non-retroactivity
34	9 November 2017	C-298/16 (EU:C:2017:843)	Ispas v Directia Generală a Finanțelor Publice Cluj	N/A	Reference for a preliminary ruling — General principles of EU law — Right to good administration and rights of the defence — National tax rules providing for the right to be heard and the right to be informed during an administrative tax procedure — Decision to levy value added tax issued by the national tax authorities without giving the taxpayer access to the information and the documents upon which that decision was based

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35	9 November 2017	C-499/16 (EU:C:2017:846)	AZ v Minister Finansów	Article 98 and Annex III, point 1, of Directive 2006/112/EC	Discretion of the Member States to apply a reduced rate to certain supplies of goods and services — Foodstuffs — Pastry goods and cakes — Best-before date or use-by date — Principle of fiscal neutrality
36	9 November 2017	C-552/16 (EU:C:2017:849)	WIND INNOVATION I EOOD, in liquidation v Direktor na Direksia 'Obzhalvane i danachno- osiguritelna praktika' — Sofia	Articles 168 and 176 of Directive 2006/112/EC	Dissolution of a company resulting in its removal from the value added tax (VAT) register — Obligation to calculate VAT on available assets and to pay the VAT calculated to the State — Maintenance or amendment of the law existing on the date of accession to the European Union — Effect on the right to deduct