



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

**taxud.c.1(2018)6398835 – EN**

Brussels, 8 November 2018

**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	11 April 2018	C-532/16 (EU:C:2018:228)	<b>Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos</b>  v  <b>SEB bankas AB</b>	Articles 184 to 186 of Directive 2006/112/EC	Limitation of the right to deduct input tax — Adjustment of the deduction of input tax paid — Supply of land — Mischaracterisation as ‘taxable activity’ — Indication of VAT on the initial invoice — Amendment of that indication by the supplier
2	12 April 2018	C-8/17 (EU:C:2018:249)	<b>Biosafe — Indústria de Reciclagens SA</b>  v  <b>Flexipiso — Pavimentos SA</b>	Articles 63, 167, 168, 178 to 180, 182 and 219 of Directive 2006/112/EC	Principle of fiscal neutrality — Right to deduct VAT — Period allowed by national law for exercising that right — Deduction of additional VAT paid to the State that was the subject of documents rectifying the initial invoices following a tax adjustment — The date from which the period starts to run
3	19 April 2018	C-580/16 (EU:C:2018:261)	<b>Firma Hans Bühler KG</b>  v  <b>Finanzamt Graz-Stadt</b>	Articles 42, 141 and 265, read in conjunction with the first paragraph of Article 41 and Articles 197 and 263 of Directive 2006/112/EC	Place of intra-Community acquisition — Intra-Community acquisition of goods that are the object of a subsequent supply — Exemption — Triangular transaction — Simplification measures — Correction of recapitulative statement

**taxud.c.1(2018)6398835**  
**VAT Committee – Information paper**

<b>4</b>	26 April 2018	C-81/17 (EU:C:2018:283)	<b>Zabrus Siret SRL</b>  <b>ν</b>  <b> Direcția Generală Regională a  Finanțelor Publice Iași —  Administrația Județeană a  Finanțelor Publice Suceava</b>	Articles 167, 168, 179, 180 and 182 of Directive 2006/112/EC	Deduction of input tax — Right to a refund of VAT — Transactions relating to a tax period that has already been the subject of a tax inspection which has concluded — National legislation — Possibility for the taxable person to correct tax returns which have already been covered by a tax inspection — Precluded — Principle of effectiveness — Fiscal neutrality — Legal certainty
<b>5</b>	2 May 2018	C-574/15 (EU:C:2018:295)	<b>Mauro Scialdone</b>	Directive 2006/112/EC, read in conjunction with Article 4(3) TEU, and Article 325(1) TFEU	Value added tax (VAT) — Protection of the European Union's financial interests — Article 4(3) TEU — Article 325(1) TFEU — Directive 2006/112/EC — PFI Convention — Penalties — Principles of equivalence and effectiveness — Failure to pay, within the time limit prescribed by law, the VAT resulting from an annual tax return — National legislation imposing a custodial sentence only where the amount of unpaid VAT exceeds a certain criminalisation threshold — National legislation imposing a lower criminalisation threshold for a failure to pay withholding income tax
<b>6</b>	17 May 2018	C-566/16 (EU:C:2018:321)	<b>Dávid Vámos</b>  <b>ν</b>  <b>Nemzeti Adó- és Vámhivatal  Fellebbviteli Igazgatósága</b>	Articles 282 to 292 of Directive 2006/112/EC	Special scheme for small enterprises — Exemption scheme — Obligation to opt for the application of the special scheme in the reference calendar year

**taxud.c.1(2018)6398835**  
**VAT Committee – Information paper**

<b>7</b>	31 May 2018	Joined Cases C-660/16 and C-661/16 (EU:C:2018:372)	<b>Finanzamt Dachau</b> v <b>Achim Kollroß (C-660/16),</b>  <b>and</b>  <b>Finanzamt Göppingen</b> v <b>Erich Wirtl (C-661/16)</b>	Articles 65, 167, 185 and 186 of Directive 2006/112/EC	Supply of goods — Payment on account for the purchase of an item not followed by delivery of that item — Supplier’s legal representatives convicted of fraud — Insolvency of the supplier — Deduction of input tax — Conditions — Adjustment by the national tax authorities — Conditions
<b>8</b>	13 June 2018	C-665/16 (EU:C:2018:431)	<b>Minister Finansów</b> v  <b>Gmina Wrocław</b>	Articles 2(1)(a) and 14(2)(a) of Directive 2006/112/EC	Supply of goods for consideration — Transfer of the right to dispose of tangible property as owner — Transfer of the ownership of property belonging to a municipality to the Public Treasury in return for the payment of compensation for the purposes of the construction of a national road — Concept of ‘compensation’ — Transaction subject to VAT
<b>9</b>	13 June 2018	C-421/17 (EU:C:2018:432)	<b>SZEF Krajowej Administracji Skarbowej</b> v  <b>Polfarmex Spółka Akcyjna w Kutnie</b>	Article 2(1)(a) of Directive 2006/112/EC	Scope — Taxable transactions — Supply of goods for consideration — Transfer, by a public limited company of a building to a shareholder as the counterpart to the buy-back of its shares
<b>10</b>	14 June 2018	C-39/17 (EU:C:2018:438)	<b>Lubrizol France SAS</b> v  <b>Caisse nationale du Régime social des indépendants (RSI) participations extérieures</b>	Articles 28, 30 and 110 TFEU; Articles 14(1) and 17 of Directive 2006/112/EC	Free movement of goods — Charges having equivalent effect — Internal taxation — Social solidarity contribution payable by companies — Charge — Basis of assessment — Companies’ overall annual turnover — Transfer of goods to another Member State — Value of the goods transferred — Inclusion in the overall annual turnover

**taxud.c.1(2018)6398835**  
**VAT Committee – Information paper**

<b>11</b>	20 June 2018	C-108/17 (EU:C:2018:473)	<b>UAB ‘Enteco Baltic’</b>  v  <b>Muitinės departamentas prie Lietuvos Respublikos finansų ministerijos</b>	Article 143(1)(d) and Article 143(2) of Directive 2006/112/EC	Exemptions from VAT on importation — Importation followed by an intra-Community supply — Conditions — Evidence of dispatch or transport of the goods to another Member State — Transport under an excise duty suspension arrangement — Transfer to the purchaser of the right to dispose of goods as owner — Tax evasion — No obligation of the competent authority to help the taxable person collect the necessary information to show that the conditions for exemption are satisfied
<b>12</b>	27 June 2018	C-364/17 (EU:C:2018:500)	<b>‘Varna Holideis’ EOOD</b>  v  <b>Direktor na Direksia ‘Obzhalvane i danachno-osiguritelna praktika’ – Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite</b>	Articles 90 and 185 of Directive 2006/112/EC	Supply of immovable property effected prior to the accession of the Republic of Bulgaria to the European Union — Nullity of the contract of sale coming to light after the accession — Obligation to adjust the initial deduction — Interpretation — Jurisdiction of the Court
<b>13</b>	27 June 2018	Joined Cases C-459/17 and C-460/17 (EU:C:2018:501)	<b>SGI (C-459/17), Valériane SNC (C-460/17)</b>  v  <b>Ministre de l’Action et des Comptes publics</b>	Article 17 of the Sixth VAT Directive, as amended by Directive 91/680/EEC	Right to deduct input tax — Material conditions governing the right to deduct — Actual delivery of the goods

**taxud.c.1(2018)6398835**  
**VAT Committee – Information paper**

<b>14</b>	5 July 2018	C-544/16 (EU:C:2018:540)	<b>Marcandi Ltd, trading as ‘Madbid’</b>  v <b>Commissioners for Her Majesty’s Revenue and Customs</b>	Articles 2(1)(c) and 73 of Directive 2006/112/EC	Issuing of ‘credits’ that can be used to place bids in online auctions — Supply of services for consideration — Preliminary transaction — Taxable amount
<b>15</b>	5 July 2018	C-320/17 (EU:C:2018:537)	<b>Marle Participations SARL</b>  v <b>Ministre de l’Économie et des Finances</b>	Articles 2, 9 and 168 of Directive 2006/112/EC	Economic activity — Direct or indirect involvement of a holding company in the management of its subsidiaries — Letting of a building by a holding company to its subsidiary — Deduction of input tax — VAT paid by a holding company on expenditure incurred in acquiring shares in other companies
<b>16</b>	11 July 2018	C-154/17 (EU:C:2018:560)	<b>SIA ‘E LATS’</b>  v <b>Valsts ieņēmumu dienests</b>	Article 311(1)(1) of Directive 2006/112/EC	Special arrangements for second-hand goods — Definition of ‘second-hand goods’ — Goods containing precious metals or precious stones resold by a trader — Processing of those goods after sale — Recovery of the precious metals or precious stones — Concept of ‘precious metals or precious stones’
<b>17</b>	25 July 2018	C-5/17 (EU:C:2018:592)	<b>Commissioners for Her Majesty’s Revenue and Customs</b>  v <b>DPAS Limited</b>	Article 135(1)(d) of Directive 2006/112/EC	Exemption — Transactions concerning payments and transfers — Concept — Scope — Dental payment plan by direct debit

**taxud.c.1(2018)6398835**  
**VAT Committee – Information paper**

<b>18</b>	25 July 2018	C-140/17 (EU:C:2018:595)	<b>Szef Krajowej Administracji Skarbowej</b>  v  <b>Gmina Ryjewo</b>	Articles 167, 168 and 184 of Directive 2006/112/EC	Deduction of input tax — Adjustment — Immovable property acquired as capital goods — Initial allocation to an activity which does not confer entitlement to deduct input tax and subsequently also to an activity subject to VAT — Public body — Taxable-person status at the time of the taxable transaction
<b>19</b>	7 August 2018	C-16/17 (EU:C:2018:647)	<b>TGE Gas Engineering GmbH — Sucursal em Portugal</b>  v  <b>Autoridade Tributária e Aduaneira</b>	Articles 44, 45, 132(1)(f), 167 to 169, 178, 179, 192a to 194 and 196 of Directive 2006/112/EC	Deduction of input tax — Origin and scope of the right to deduct
<b>20</b>	7 August 2018	C-475/17 (EU:C:2018:636)	<b>Viking Motors and Others TKM Beauty Eesti OÜ, TKM King AS, Kaubamaja AS, Selver AS</b>  v  <b>Tallinna linn, Maksu- ja Tolliamet</b>	Article 401 of Directive 2006/112/EC	Domestic taxes which can be characterised as turnover taxes — Prohibition — Concept of ‘turnover tax’ — Local sales tax — Essential characteristics of VAT — None

**taxud.c.1(2018)6398835**  
**VAT Committee – Information paper**

<b>21</b>	12 September 2018	C-69/17 (EU:C:2018:703)	<b>Siemens Gamesa Renewable Energy România SRL, formerly Gamesa Wind România SRL</b>  <b>v</b>  <b>Agencia Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor, Agenția Națională de Administrare Fiscală — Direcția Generală de Administrare a Marilor Contribuabili</b>	Articles 213, 214 and 273 of Directive 2006/112/EC	Right of deduction — Acquisitions made by a taxpayer declared ‘inactive’ by the tax authorities — Refusal of the right of deduction — Principles of proportionality and neutrality of VAT
<b>22</b>	17 October 2018	C-249/17 (EU:C:2018:834)	<b>Ryanair Ltd</b>  <b>v</b>  <b>The Revenue Commissioners</b>	Articles 4 and 17 of the Sixth VAT Directive	Concept of taxable person — Holding company — Deduction of input tax — Expenditure for consultancy services received for the purpose of the acquisition of another company’s shares — Acquiring company’s intention to provide management services to the target company — Those services not provided — Right to deduct VAT charged on the services received
<b>23</b>	18 October 2018	C-153/17 (EU:C:2018:845)	<b>Commissioners for Her Majesty’s Revenue and Customs</b>  <b>v</b>  <b>Volkswagen Financial Services (UK) Ltd</b>	Articles 168 and 173 of Directive 2006/112/EC	Deduction of input tax — Vehicle hire purchase transactions — Goods and services used for both taxable transactions and exempt transactions — Origin and scope of the right to deduct — Proportional deduction



**taxud.c.1(2018)6398835**  
**VAT Committee – Information paper**

---

<b>24</b>	8 November 2018	C-495/17 (EU:C:2018:887)	<b>Cartrans Spedition SRL</b>  v <b>Direcția Generală Regională a Finanțelor Publice Ploiești – Administrația Județeană a Finanțelor Publice Prahova, Direcția Regională a Finanțelor Publice București – Administrația Fiscală pentru Contribuabili Mijlocii</b>	Articles 146(1)(e) and 153 of Directive 2006/112/EC	Exonérations – Opérations de transport routier directement liées à l'exportation de biens – Prestations effectuées par des intermédiaires intervenant dans de telles opérations – Régime de preuve afférent à l'exportation des biens – Déclaration en douane – Carnet TIR <i>(no translation into English available)</i>
<b>25</b>	8 November 2018	C-502/17 (EU:C:2018:888)	<b>C&amp;D Foods Acquisition ApS</b>  v <b>Skatteministeriet</b>	Articles 2, 9 and 168 of Directive 2006/112/EC	Projet de cession d'actions d'une sous-filiale – Dépenses liées à des prestations de services acquises aux fins de cette cession – Cession non réalisée – Demande de déduction de la taxe payée en amont – Champ d'application de la TVA <i>(no translation into English available)</i>