



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

**taxud.c.1(2018)1734082 – EN**

Brussels, 21 March 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**

	<b>Date</b>	<b>Case number (ECLI)</b>	<b>Parties concerned</b>	<b>Articles</b>	<b>Subject</b>
<b>1</b>	15 November 2017	Joined Cases C-374/16 and C-375/16 (EU:C:2017:867)	<b>Rochus Geissel, in his capacity as liquidator of RGEX GmbH i.L.</b> v <b>Finanzamt Neuss (C-374/16),</b>  <b>and</b> <b>Finanzamt Bergisch Gladbach</b> v <b>Igor Butin (C-375/16)</b>	Articles 168(a), 178(a) and 226(5) of Directive 2006/112/EC	Deduction of input tax — Compulsory content of invoices — Legitimate expectation on the part of the taxable person regarding the existence of the conditions giving rise to the right to deduct
<b>2</b>	15 November 2017	C-507/16 (EU:C:2017:864)	<b>Entertainment Bulgaria System EOOD</b>  v <b>Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’, Sofia</b>	Articles 168(a), 169(a), 214(1)(d) and (e), 289 and 290 of Directive 2006/112/EC	Deductibility of input value added tax (VAT) due or paid — Output transactions carried out in other Member States — Tax deduction scheme in the Member State in which the right to deduct is exercised
<b>3</b>	16 November 2017	C-308/16 (EU:C:2017:869)	<b>Kozuba Premium Selection sp. z o.o.,</b>  v <b>Dyrektor Izby Skarbowej w Warszawie</b>	Articles 12(1) and (2) and 135(1)(j) of Directive 2006/112/EC	Taxable transactions — Exemption for the supply of buildings — Concept of ‘first occupation’ — Concept of ‘conversion’

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<b>4</b>	21 November 2017	C-615/16 (EU:C:2017:906)	<b>Giovanna Judith Kerr</b>  v  <b>Fazenda Pública</b>	Articles 15(2) and 135(1)(f) of Directive 2006/112/EC	Rights to use immovable property — Exemptions — Scope — Concept of ‘negotiation’
<b>5</b>	22 November 2017	C-251/16 (EU:C:2017:881)	<b>Edward Cussens, John Jennings, Vincent Kingston</b>  v  <b>T.G. Brosnan</b>	Articles 4(3)(a) and 13B(g) of the Sixth VAT Directive	Exemption of the supply of buildings, and of the land on which they stand, other than as described in Article 4(3)(a) — Principle that abusive practices are prohibited — Applicability in the absence of national provisions transposing that principle — Principles of legal certainty and of the protection of legitimate expectations
<b>6</b>	23 November 2017	C-246/16 (EU:C:2017:887)	<b>Enzo Di Maura</b>  v  <b>Agenzia delle Entrate — Direzione Provinciale di Siracusa</b>	Second subparagraph of Article 11C(1) of the Sixth VAT Directive	Restriction of the right to reduce the taxable amount in the event of non-payment by the other party to the contract — Scope for implementation by the Member States — Proportionality of the period of pre-financing by the trader
<b>7</b>	23 November 2017	Joined Cases C-427/16 and C- 428/16 (EU:C:2017:890)	<b>CHEZ Elektro Bulgaria AD</b> v <b>Yordan Kotsev</b> <b>(C-427/16),</b>  <b>and</b>  <b>FrontEx International EAD</b> v <b>Emil Yanakiev</b> <b>(C-428/16)</b>	Point (a) of the first subparagraph of Article 78 of Directive 2006/112/EC	Competition — Freedom to provide services — Setting of minimum fee amounts by a lawyers’ professional organisation — Court prohibited from ordering reimbursement of fees in an amount less than those minimum amounts — National legislation considering value added tax (VAT) to form part of the price of a service provided in the performance of professional activities

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<b>8</b>	23 November 2017	C-314/17 (EU:C:2017:901)	<b>« Geocycle Bulgaria » EOOD</b>  v  <b>Direktor na Direktsia «          Obzhelvane i danachno-          osiguritelna praktika » Veliko          Tarnovo pri Tsentralno          upravlenie na Natsionalnata          agentsia za prihodite</b>	N/A	Common system of value added tax (VAT) — Principles of fiscal neutrality and effectiveness — Reverse charge regime — Refusal to allow the recipient of an invoice to deduct input VAT — Decision of the tax authorities establishing a tax payable by the recipient of goods
<b>9</b>	14 December 2017	C-305/16 (EU:C:2017:970)	<b>Avon Cosmetics Ltd</b>  v  <b>Commissioners for Her Majesty’s          Revenue and Customs</b>	Articles 11A(1)(a), 17 and 27 of the Sixth VAT Directive; Decision 89/534/EEC	Taxable amount — Right to deduct — Special derogating measures — Marketing structure based on the supply of goods through non-taxable persons — Taxation on the open market value of the goods as determined at the final stage of the marketing chain — Inclusion of the costs incurred by those persons
<b>10</b>	20 December 2017	C-462/16 (EU:C:2017:1006)	<b>Finanzamt Bingen-Alzey</b>  v  <b>Boehringer Ingelheim Pharma          GmbH &amp; Co. KG</b>	Article 90(1) of Directive 2006/112/EC	Reduction of the price under conditions determined by the Member States — Reduction of the taxable amount — Principles laid down in the judgment of 24 October 1996, Elida Gibbs (C-317/94, EU:C:1996:400) — Discounts granted to private medical insurance funds
<b>11</b>	18 January 2018	C-463/16 (EU:C:2018:22)	<b>Stadion Amsterdam CV</b>  v  <b>Staatssecretaris van Financiën</b>	Third subparagraph of Article 12(3)(a) and Annex H, category 7 of the Sixth VAT Directive	Reduced rate of VAT — Single supply comprised of two distinct elements — Selective application of a reduced rate of VAT to one of those elements — ‘World of Ajax’ tour — Visit to the AFC Ajax museum

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<b>12</b>	8 February 2018	C-380/16 (EU:C:2018:76)	<b>European Commission</b>  v  <b>Bundesrepublik Deutschland</b>	Articles 73 and 306-310 of Directive 2006/112/EC	Vertragsverletzung eines Mitgliedstaats – Steuerwesen – Besteuerungsgrundlage – Sonderregelung für Reisebüros – Ausschluss der Verkäufe an steuerpflichtige Unternehmen von dieser Regelung – Pauschale Ermittlung der Besteuerungsgrundlage für einen bestimmten Zeitraum – Unvereinbarkeit
<b>13</b>	21 February 2018	C-628/16 (EU:C:2018:84)	<b>Kreuzmayr GmbH</b>  v  <b>Finanzamt Linz</b>	Articles 32 and 168(a) of Directive 2006/112/EC	Successive supplies relating to the same goods — Place of the second supply — Information provided by the first supplier — VAT identification number — Right to deduct — Legitimate expectation on the part of the taxable person regarding the existence of the conditions giving rise to the right to deduct
<b>14</b>	22 February 2018	C-396/16 (EU:C:2018:109)	<b>T-2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o.,</b>  v  <b>Republika Slovenija</b>	Articles 184 to 186 of Directive 2006/112/EC	Adjustment of the deduction of input tax paid — Change in the factors used to determine the amount to be deducted — Notion of ‘transactions remaining totally or partially unpaid’ — Effect of a decision approving an arrangement with creditors having the force of res judicata
<b>15</b>	22 February 2018	C-182/17 (EU:C:2018:91)	<b>Nagyszénás Településszolgáltatási Nonprofit Kft.</b>  v  <b>Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága</b>	Articles 2(1)(c), 9 and 13(1) of Directive 2006/112/EC	Treatment as a non-taxable person — Definition of ‘body governed by public law’ — Commercial company 100% owned by a municipality and responsible for performing certain public tasks incumbent on that municipality — Those tasks and their remuneration determined in a contract between the company and the municipality

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<b>16</b>	28 February 2018	C-307/16 (EU:C:2018:124)	<b>Stanisław Pieńkowski</b>  v  <b>Dyrektor Izby Skarbowej w Lublinie</b>	Articles 131, 146(1)(b), 147 and 273 of Directive 2006/112/EC	Exemptions on exportation — Legislation of a Member State making the benefit of the exemption subject to the attainment of a minimum level of turnover or the conclusion of an agreement with a person authorised to make VAT refunds to travellers
<b>17</b>	28 February 2018	C-387/16 (EU:C:2018:121)	<b>Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos</b>  v  <b>Nidera BV</b>	Article 183 of Directive 2006/112/EC	Deduction of input tax — Refund of overpaid VAT — Late refund — Amount of default interest due under national law — Reduction of that amount for reasons not attributable to the taxable person — Whether permissible — Fiscal neutrality — Legal certainty
<b>18</b>	28 February 2018	C-672/16 (EU:C:2018:134)	<b>Imofloresmira — Investimentos Imobiliários SA</b>  v  <b>Autoridade Tributária e Aduaneira</b>	Articles 137, 167, 168, 184, 185 and 187 of Directive 2006/112/EC	Exemption of the leasing and letting of immovable property — Right of option available to taxpayers — Implementation by the Member States — Deduction of input tax — Use for the purposes of the taxable person's taxed transactions — Adjustment of the initial deduction — Not permissible

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<b>19</b>	7 March 2018	C-159/17 (EU:C:2018:161)	<b>Întreprinderea Individuală Dobre M. Marius</b>  <b>ν</b>  <b>Ministerul Finanțelor Publice — A.N.A.F. — D.G.R.F.P. Galați — Serviciul Soluționare Contestații,</b>  <b>A.N.A.F — D.G.R.F.P. Galați — A.J.F.P. Constanța — Serviciul Inspecție Fiscală Persoane Fizice 2 Constanța</b>	Articles 167 to 169, 179, 213(1), 214(1)(a) and 273 of Directive 2006/112/EC	Revocation of identification for VAT purposes — Obligation to pay VAT collected in the period during which the VAT identification number is revoked — Non-recognition of the right to deduct VAT relating to purchases made during that period
<b>20</b>	21 March 2018	C-533/16 (EU:C:2018:204)	<b>Volkswagen AG</b>  <b>ν</b>  <b>Finančné riaditeľstvo Slovenskej republiky</b>	Articles 167 to 171 and 178(a) of Directive 2006/112/EC; Directive 2008/9/EC	Right to deduct VAT — Right to refunds of VAT for taxable persons not established in the Member State of refund — Rules governing the exercise of the right to deduct VAT — Detailed rules for the refund of VAT — Limitation period — Principle of fiscal neutrality — VAT charged and paid several years after delivery of the goods in question — Refusal to allow the exercise of the right to a refund due to the expiry of the time limit which should have started to run from the date of supply of the goods