# ECJ VAT Cases decided in 2024

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| Case # and Name | Topic | Articles | Directive | Decision | Questions raised to ECJ |
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| C-680/23 Modexel | Right to deduct VAT | 183 | 2006/112/EC | The first paragraph of Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as not precluding national legislation which provides that, where a taxable person ceases economic activity, that person may not carry excess value added tax, declared at the time of that cessation of activity, forward to a following period and may recover that amount only by requesting a refund within 12 months from the date on which that activity ceased, provided that the principles of equivalence and effectiveness are observed. | 1) Must the expression "the following period" in Article 183 of the VAT Directive be interpreted as referring literally to the period which immediately follows in the calendar year?<br>2) If the answer to question 1 is in the negative, where an undertaking ceases its activity and subsequently recommences that activity, with a period of 15 months having elapsed between those two points in time, is that undertaking entitled to deduct the amount of the excess which it carried forward when it ceased its activity in the first assessment that it files after recommencing its activity? |

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| C-624/23 SEM Remont | Right to deduct VAT | 63, 167, 168(a), 176, 178(a), 203, 218, 219, 220, 226, 228 | 2006/112/EC | 1. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010,<br><br>must be interpreted as not precluding legislation of a Member State under which the recipient of a supply subject to value added tax (VAT) is denied the right to deduct that tax, provided for by that directive, where the supplier, first, has failed to fulfil its obligation, laid down by that legislation, to submit an application for registration for VAT purposes and issued for the recipient invoices not stating VAT, and, second, issued, during a tax inspection, a report stating that VAT and in which that supplier was put forward as also being the recipient of that supply.<br><br>2. Directive 2006/112, as amended by Directive 2010/45, and the principle of neutrality of value added tax (VAT),<br><br>must be interpreted as not precluding legislation of a Member State which excludes the possibility of correcting an invoice where, first, the invoice which the supplier has provided to the recipient of a supply subject to VAT did not state that tax and, second, during a tax inspection of that supplier, the supplier drew up a report stating the VAT and putting forward the supplier as also being the recipient of that supply. | 1. Pursuant to Article 63, Article 167, Article 168(a), Article 178(a), Article 218, Article 219, Article 220, Article 226 and Article 228 of Directive 2006/112/EC on the common system of value added tax (hereinafter: 'VAT Directive') a practice of the tax authorities regarding the application of national provisions, in particular Article 71(1) of the Zakon za danak varhu dobavenata stoynost (Tax Act on added value; hereinafter: 'ZDDS', read in conjunction with Article 25(1) ZDDS, read in conjunction with Article 102(4), Article 114, Article 116 and Article 117 ZDDS, read in conjunction with Article 125 ZDDS and Article 126 ZDDS, permissible, according to which the purchaser of a service subject to VAT is denied the right to deduct input VAT, both for the period in which the service was provided and for the period in which it was declared in the tax return, on the grounds that no VAT was stated on the invoice issued by the service provider and that a document was drawn up at a later date (in the context of the tax audit at the service provider) that does not meet the requirements for the content of an invoice (there is a protocol in which the originator is regarded as a service provider and as a customer) and in which the invoice issued to the customer is stated and the VAT paid has been calculated on the taxable amount stated therein, and only then does the customer have the right to deduct input VAT ('right on the use of a tax credit" according to the ZDDS) on the basis of the protocol, and does this make the exercise of the right to deduct input tax for the taxpayer in practice impossible or extremely difficult?<br><br>2. If the first question is answered in the negative: at what time must the right to deduct input VAT be exercised - at the time of issuance of the invoice without the VAT indicated on it or at the time of issuance of the protocol by the service provider ?<br><br>3. In the light of Article 203, read in conjunction with Article 178(a) and Article 176 of the VAT Directive and the principle of fiscal neutrality, are a scheme such as that of Article 102(4) ZDDS and a practice of the national tax authorities, according to which the supplier of a service subject to VAT who has not submitted an application for registration under the ZDDS within the statutory period from the date on which he became obliged to register under the ZDDS, must only pay VAT on the services he owes in the period from the date on which the registration obligation arose until the registration with the tax authorities and no possibility is offered that the service provider for whom the VAT obligation is in accordance with Article 102(4) ZDDS established, issues corrective invoices (or another document) to the recipients of the services, so that they can exercise the right to deduct input VAT? |
| C-622/23 RHTV | Taxable amount | 2, 9, 24, 73 | 2006/112/EC | Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as meaning that the amount contractually due following the termination, by the recipient of a supply of services, of a contract validly concluded for that supply of services, subject to value added tax, which the supplier had begun providing and which it was prepared to complete, must be regarded as constituting the remuneration for a supply of services for consideration, within the meaning of Directive 2006/112. | Must Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Article 73 of that directive, be interpreted as meaning that the amount that a client must also pay to the contractor if the work is not (completely) carried out, but the contractor was prepared to carry out the work and due to circumstances attributable to the client (for example the cancellation of the work) ) is prevented from doing so, is subject to VAT? |

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| C-613/23 Herdijk | Liability | 273 | 2006/112/EC | 1. Article 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in the light of the principle of proportionality,<br><br>must be interpreted as not precluding national legislation under which a director of an entity which has not complied with the obligation to notify its inability to pay a value added tax debt must, in order to be relieved of his or her joint and several liability for the payment of that debt, demonstrate that the failure to comply with that notification obligation is not attributable to him or her, in so far as the legislation in question does not limit the possibility of demonstrating that circumstance solely to cases of force majeure, but allows the director to raise any circumstance capable of showing that he or she is not responsible for the failure to comply with that notification obligation.<br><br>2. Article 273 of Directive 2006/112, read in the light of the principle of proportionality,<br><br>must be interpreted as not precluding national legislation which has the effect that the director of an entity which has failed to notify the latter's inability to pay remains jointly and severally liable for the payment of a value added tax debt relating to a particular period, whereas he or she has been released from a debt on the same basis related to an immediately following period after being able to demonstrate that he or she acted in good faith and exhibited, during the previous three years, all the due diligence required of a circumspect trader in order to prevent the entity from being unable to honour its obligations and his or her participation in abuse or fraud is excluded. | 1. Does the principle of proportionality provided for under EU law preclude a legal rule such as that set out in Article 36(4) of the IW 1990, which, in practice, makes it extremely difficult for a director of a legal person that has failed to comply, or has failed to comply properly, with its obligation to notify the tax collection authorities of its inability to pay, to escape liability for tax debts of that legal person, including turnover tax debts?<br>2. Does the answer to Question 1 depend on whether the director acted in good faith in that he or she acted with the care of a prudent business person, did everything reasonably within his or her power, and his or her involvement in abuse or fraud may be ruled out? |
| C-594/23 Lomoco Development and Others | Exemption | 12(1)(a), 12(2), 135(1)(j) | 2006/112/EC | Article 12 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as meaning that a supply of land that, at the date of that supply, has only the foundations of residential housing structures in place, constitutes a supply of 'building land' within the meaning of that article. | Is it compatible with Article 135(1)(j), and Article 12(1)(a) and (2), on the one hand, and with Article 135(1)(k), and Article 12(1)(b) and (3), on the other, of Directive 2006/112 (<br>1 ) for a Member State, in circumstances such as those in the main proceedings, to consider a supply of land on which, at the time of supply, a pre-cast foundation has been constructed<br>and on which a residential building is only subsequently constructed by other owners to be a sale of building land subject to VAT? |
| C-576/23 Elite Gamaes | Rate | 98 | 2006/112/EC | Article 98(2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with point 7 of Annex III to that directive ,<br><br>must be interpreted in the sense that:<br><br>the installation, in a demarcated area within commercial spaces or shopping centers, of entertainment machines for individual or collective use and operating using tokens purchased from their holder or, where applicable, after paying a right to it, does not fall within the notion of "amusement parks", within the meaning of this point 7. Consequently, the services giving access to them cannot benefit from the reduced | The provision, to people, of entertainment machines for individual or collective use, located in a demarcated area within commercial spaces or shopping centers and operating on the basis of tokens or, where applicable, rights paid to their holder, in return for access to one of these machines, can it fall within the concept of "entrance fee to amusement parks" within the meaning of Annex III, point 7, of Directive [2006/112], in conjunction with Article 98 of that directive? |

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| | | | | rate of value added tax that the States members have the right to apply for admission to amusement parks. | |
| C-532./23 Lear Corporation Hungary | Interest | 183 | 2006/112/EC | 1. Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted, in the light of the principles of equivalence, effectiveness and fiscal neutrality, as meaning that when a taxpayer person claims a refund of value added tax (VAT) which he or she could not request previously due to the application of a regulatory requirement that the Court has held to infringe that article, it does not preclude, in the circumstances provided for by the law of the Member State concerned, that claim for a refund from being regarded as also including a claim for late payment interest, having regard to the purpose of the payment of interest on excess VAT retained by a Member State in breach of the rules of EU law, which is intended to compensate the taxpayer for the financial loss that he or she incurred owing to the unavailability of the amounts concerned.<br>2. The principles of effectiveness and fiscal neutrality must be interpreted as meaning that they (a) do not preclude a practice of a Member State which consists of excluding any obligation on the part of the tax authority of that State to allocate, at the stage of a claim for late payment interest, submitted within the limitation period, relating to amounts of VAT retained by that State in breach of EU law, interest not covered by that claim, but, in contrast, (b) do preclude that authority from classifying as new, with the consequence that it is time-barred, a second claim for late payment interest referring to a period which was not the subject of that first claim, where the second claim concerns late payment interest relating to amounts of VAT retained on account of the same infringement of EU law as that on which the first claim was based and where the possibility of extending the temporal scope of that claim was not known to the taxpayer until after the adoption of a national judicial decision following a decision of the Court delivered in the exercise of the jurisdiction conferred on it by Article 267 TFEU.<br>3. The principles of effectiveness and fiscal neutrality must be interpreted as meaning that they imply that, in accordance with the procedure which it is for each Member State to determine in the light of its national law, a second claim for late payment interest referring to a period which was not the subject of a first claim for payment of such interest must be regarded as supplementing that first claim (a) where that second claim concerns late payment interest relating to amounts of VAT retained on account of the same infringement of EU law as that on which the first claim was based and (b) where the possibility of extending the temporal scope of that first claim was known to the taxpayer only after the adoption of a national judicial decision following a decision of the Court delivered in the exercise of the jurisdiction conferred on it by Article 267 TFEU. | Must Article 183 of Council Directive 2006/112/EC of 28 November 2006 1 on the common system of value added tax ('the VAT Directive'), and also the principles of equivalence and effectiveness, be interpreted as meaning that, when a taxpayer requests a refund of value added tax (VAT) which he or she could not request previously due to the application of a regulatory requirement that has been declared, in a judgment of the Court of Justice, to be contrary to EU law, it is appropriate to consider that, in that case, the refund request at the same time constitutes a claim for late payment interest, in view of the incidental nature of the interest and the fact that the claim for late payment interest is governed by the same provision of national law as regulates the request for the refund of the VAT, the late repayment of which has caused the default?<br><br>Is a practice of a Member State compatible with the principles of equivalence and effectiveness, and also, especially, with the principle of fiscal neutrality, where, pursuant to that practice, in the context of an administrative procedure relating to tax, relying on the principle that the parties have the right to limit the subject matter of an action ('the dispositive principle'), a subsequent claim by the taxpayer for late payment interest is rejected on the grounds that his or her first claim for late payment interest, which gave rise to the procedure being initiated, did not include the additional period referred to in the subsequent claim, such that the subsequent claim is classified as a new claim and is declared time-barred, even though the tax authority did not consider itself to be bound in any way by the dispositive principle in relation to the taxpayer's first claim, but rather has invoked that principle exclusively in relation to the late payment interest claimed for a period that, at the time when the claim giving rise to the initiation of the procedure was submitted, was not yet known, that period having been defined by case-law while that procedure was under way?<br><br>Having regard to the principles of equivalence, effectiveness and fiscal neutrality should a subsequent claim submitted in the context of an administrative procedure relating to tax, on the basis of the case-law established by the courts, be regarded as constituting a supplement to the first claim, which gave rise to the procedure being initiated, or as a modification of that first claim, where the two claims only differ as regards the interest payment period?<br><br>Is a practice of a Member State compatible with the principles of equivalence, effectiveness and fiscal neutrality where, pursuant to that practice, a claim submitted |

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| C-.527/23 Weatherford Atlas Gip | Right to deduct VAT | 2(1), 9(1), 168, 178, 203, 273 | 2006/112/EC | Article 168 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding national legislation or practice under which the tax authorities refuse to grant the right to deduct input value added tax, paid by a taxable person on the acquisition of services from other taxable persons forming part of the same group of companies, on the grounds that those services were simultaneously supplied to other companies in that group and that their acquisition was not necessary or appropriate, where it is established that those services are used as output services by that taxable person for the purposes of his own taxable transactions. | 1. Must Article 168 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in the light of the principle of fiscal neutrality, be interpreted as precluding states that, in circumstances such as those of the main proceedings, the tax authorities deny a taxable person the right to deduct the value added tax paid on the administrative services received, where it has been established that all costs recorded for the services acquired are included in the general costs of the taxpayer who only carries out taxable transactions,the provision of services has been expressly confirmed by the tax authorities and the transactions have been carried out under the reverse charge mechanism (which excludes detriment to the state budget)?<br><br>2. When interpreting Article 2 and Article 168 of Directive 2006/112, in circumstances such as those of the main proceedings, can administrative and management services (that is to say assistance and advice in various areas as well as financial and legal advice) provided by undertakings within a group are carried out for the benefit of other members of that group, are regarded by each member as being used for taxable transactions or acquired for his own use?<br><br>3. When interpreting Article 2 of Directive 2006/112, if it is established that the services provided within a group were not provided for the benefit of one of the members of the group, can a company that is part of the group but not deemed to have received these services are regarded as a taxable person acting as such? |
| C-.475/23 Voestalpine Giesserei Linz | Right to deduct VAT | 168(a) | 2006/112/EC | 1. Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as precluding a national practice whereby, where a taxable person has acquired goods which that taxable person then makes available free of charge to a subcontractor, in order for that subcontractor to carry out work for that taxable person, that taxable person is denied the deduction of the VAT relating to the acquisition of those goods, in so far as the making available of those goods does not go beyond what is necessary to enable that taxable person to carry out one or more taxable output transactions or, failing that, to carry out its economic activity, and the cost of acquiring those goods is part of the cost components of either the transactions carried out by that taxable person or the goods or services which that taxable person supplies in the course of its economic activity.<br><br>2. Article 168(a) of Directive 2006/112<br><br>must be interpreted as precluding a national practice whereby a taxable person is denied the deduction of input VAT on the ground that that taxable person has not kept separate accounts for its fixed establishment in the Member State in which the tax inspection is carried out where the tax authorities are in a position to determine whether the substantive conditions of the right of deduction are satisfied. | 1. Do the provisions of Council Directive 2006/112/EC on the right to deduct VAT preclude a national practice whereby, if a company purchases goods which it then makes available to a subcontractor free of charge so that the subcontractor may carry out activities for the first company, that company is refused the right to deduct the VAT on the goods purchased, on the grounds that the purchase is deemed not to be for the purposes of its own taxable transactions but for the purposes of the subcontractor's taxable transactions?<br>Do the provisions of Council Directive 2006/112/EC on the right to deduct VAT preclude a national practice whereby a taxable person is refused the right to made deductions on the grounds that he or she has not kept separate accounts for his or her permanent establishment in Romania, thus preventing the tax authorities from verifying the costs of the labour used for the cast products of which the owner is [that taxable person], let alone the entire processing activity carried out in Romanian territory? |

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| C-429/23 NARE-BG | Right to deduct VAT | 184. 186 | 2006/112/EC | Article 184 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, read in conjunction with Article 186 of Directive 2006/112, as amended by Directive 2010/45, and the principles of equivalence, effectiveness and neutrality of value added tax (VAT)<br><br>must be interpreted as meaning that<br><br>do not preclude national legislation and administrative practice under which a taxable person is refused the right to deduct input VAT paid before that person's VAT registration on the ground that he has applied for that deduction after the expiry of the limitation period laid down by the applicable national legislation by means of a declaration seeking to correct a VAT return; submitted before the expiry of that period, notwithstanding the fact that, in connection with the COVID-19 pandemic, national measures were adopted in order to extend the time limits for declaring and paying certain taxes, among which, however, VAT is not included. | 1) Has a limitation period such as that at issue in the main proceedings – against the background of the measures introduced by law to contain the epidemic, including the imposition of administrative measures to restrict leaving the home and freedom of movement in places limit contact with other people and close shops,where, in the context of those measures to contain the epidemic, the deadlines for the declaration and payment of tax debts in accordance with the Zakon za korporativnoto podohodno oblagane (Corporate Tax Act) (which sets the deadlines for the declaration and payment of income taxes under national law regulations) have been extended – has the effect of making in practice impossible or excessively difficult the exercise of the right to deduct input VAT by taxpayers during the period in which the measures to contain the epidemic apply and and, from this point of view, national regulations are and practices of the tax authorities such as those at issue in the main proceedings,compatible with Article 184 in conjunction with Article 186 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1; hereinafter: 'VAT Directive') , in the light of the principle of fiscal neutrality established by that directive and the principles of equivalence and effectiveness under EU law (judgment of 8 May 2008, Ecotrade, C-95/07 and C-96/07, EU:C:2008:267 )?<br><br>2. In the circumstances of the present case, in the light of the possibility provided for in the Zakon za danak varhu dobavenata stoynost (Value Added Tax Act (hereinafter: 'ZDDS')) to correct the data provided by VAT return in accordance with the ZDDS, pursuant to Article 184 in conjunction with Article 186 of the VAT Directive, a practice of the tax authorities is permissible whereby a taxable person is denied the right to deduct input VAT on the grounds that the VAT was declared in a regularization return submitted to to correct data for the last tax period of the expiry period (twelve months) for the exercise of the right to deduct input tax on supplies received by the taxable person before his registration under the ZDDS,insofar as the transactions were not concealed, the details of their implementation were included in the applicant's accounts, the tax authorities had the necessary information and there was no indication that the budget had suffered damage? |
| C-377/23 Sancra | Taxable amount | 73. 78 | 2006/112/EC | Article 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Article 78(a) and Article 2, paragraph 2(b) of that directive,<br><br>must be interpreted in the sense that:<br><br>when a person subject to value added tax (VAT) wrongly included a zero VAT rate on the invoices he sent to final consumers, when a higher rate was applicable, the price or the amount indicated on these invoices must nevertheless be considered as a price already including VAT, unless, under national law, the taxable person has the possibility of passing on to final consumers and recovering from from them the VAT corresponding to the application of the corrected rate. | Taking into account the particular circumstances of the present case, and having regard to the provisions of Articles 73 and 78 of Directive [2006/112] as well as the principle of fiscal neutrality, is it consistent with Union law to consider that the price/amount indicated on the invoices already includes VAT, or should it be considered that this is an amount to which VAT must be added? |

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| C-331/23 Dranken Van Eetvelde | Fraud | 205 | 2006/112/EC | 1. Article 205 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in the light of the principle of proportionality,<br><br>must be interpreted as meaning that:<br><br>it does not preclude a provision of national law which, in order to ensure the collection of value added tax, provides for the joint and several liability without fault of a taxable person other than the person who would normally be liable for that tax, without, however, the competent court being able to exercise a discretion on the basis of the contribution of the various persons involved in tax evasion, provided that the taxable person has the opportunity to establish that he took all measures that could reasonably be required of him to ensure that the transactions he carried out did not form part of that fraud.<br><br>(2) Article 205 of Directive 2006/112, read in the light of the principle of fiscal neutrality,<br><br>must be interpreted as meaning that:<br><br>it does not preclude a provision of national law which imposes a joint and several obligation to pay value added tax (VAT) on a taxable person other than the person who would normally be liable for that tax, without account being taken of the latter's right to deduct input VAT due or paid.<br><br>(3) Article 50 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding national legislation which permits the duplication of criminal penalties and administrative penalties of a criminal nature, resulting from different procedures, in respect of acts of the same nature which nevertheless took place in the course of successive tax years, who are the subject of administrative proceedings of a criminal nature for one fiscal year and criminal proceedings for another fiscal year. | 1) Violates art. 51 bis, §4 WBT Article 205 Rl; 2006/112 jo the principle of proportionality now that this provision provides for unconditional full liability and the court cannot assess this in function of everyone's contribution to the tax fraud?<br><br>2) Violates art. 5Ibis § 4 VAT Code art. 205 of Directive 2006/112 on the common system of VAT, in conjunction with the principle of neutrality with regard to VAT, if this provision is to be interpreted as meaning that one is jointly and severally liable to pay the VAT instead of the legal debtor, without having to take into account be held accountable for the deduction of VAT that the legal debtor can exercise?<br><br>3. Is Article 50 of the Charter of Fundamental Rights of the European Union to be interpreted as meaning that it does not preclude national legislation allowing for the accumulation of (administrative and criminal) sanctions of a criminal nature resulting from different proceedings , pre-offences which are materially the same, but which have taken place in successive years (but which would be regarded in criminal terms as a continued crime with unity of intent), and where the offenses are prosecuted for one year and the offenses for another year be prosecuted criminally? Are these facts not regarded as inextricably linked because they occurred in successive years?<br><br>4. Is Article 50 of the Charter of Fundamental Rights of the European Union to be interpreted as meaning that it does not preclude national legislation under which a person may be subject to proceedings for the imposition of an administrative fine of a criminal nature? be instituted for offenses for which he has already been convicted of a criminal offense, the two proceedings being carried out completely independently of each other, and the only guarantee that the severity of all the sanctions imposed corresponds to the seriousness of the offense in question consists in the fact that that the tax court can carry out a proportionality test on the merits,while the national legislation does not provide for rules in this regard, nor does it provide for rules that allow the administrative authorities to take into account the criminal sanction already imposed? |
| C-248/23 Novo Nordisk | Taxable amount | 90(1) | 2006/112/EC | (1) Articles 187 and 189 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as precluding legislation according to which an extended adjustment period within which input VAT payable or paid with respect to 'immovable property acquired as capital goods' may be adjusted applies to supplies of services connected to immovable property, such as works carried out for the renovation or conversion of a building.<br><br>(2) The first sentence of Article 187(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax has direct effect. | Must Article 90(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax 1 be interpreted as precluding the national legislation at issue in the main proceedings, under which a pharmaceutical company which makes payments ex lege to the State health insurance agency based on the revenue obtained from publicly funded pharmaceutical products is not entitled subsequently to reduce the taxable amount, by reason of the fact that the payments are made ex lege, that payments made under a funding volume agreement and investments made by the company in research and development in the health sector may be deducted from the base amount for the payment obligation, and that the amount payable is collected by the State tax authority, which immediately transfers it to the State health insurance agency? |

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| C-243/23 Drebers | Right to deduct VAT | 12, 187, 189 | 2006/112/EC | 1. Article 190 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Article 187 of that directive and in the light of the principle of fiscal neutrality,<br><br>must be interpreted as meaning that:<br><br>precludes national legislation relating to the adjustment of deductions from value added tax (VAT) under which the extended adjustment period laid down pursuant to Article 187 of that law for immovable capital goods is not applicable to works of immovable property subject to VAT as a supply of services within the meaning of that directive, which involve a major extension and/or in-depth renovation of the building on which this work relates and whose effects have an economic life that corresponds to that of a new building.<br><br>(2) Article 190 of Directive 2006/112, read in conjunction with Article 187 of that directive and in the light of the principle of fiscal neutrality,<br><br>must be interpreted as meaning that:<br><br>it has direct effect in such a way that the taxable person may rely on it before the national court against the competent tax authority in order to have the extended adjustment period laid down for immovable property fixed for immovable property capital goods applied to the taxable person, subject to VAT as a supply of services within the meaning of that directive, in the event that that authority has refused to apply the extended regularisation period on the basis of national legislation such as that referred to in the first question. | 1. Do Articles 187 and 189 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax preclude legislation such as that at issue in the main proceedings (i.e. Article 48, §2 and 49 JVBT read together with article 9 of the Royal Decree no. 3 of December 10, 1969, regarding the deduction scheme for the application of the value added tax), according to which the extended revision period (of 15 years) in case of renovation of a existing building is only used if, after completion of the works, there is a “new building” within the meaning of Article 12 of the aforementioned Directive on the basis of the criteria of internal law,while the economic useful life of a thoroughly renovated building (which, however, does not qualify as a “new building” within the meaning of the aforementioned Article 12 on the basis of internal legal administrative criteria) is identical to the economic useful life of a new building, which is considerably longer than the five-year term referred to in the aforementioned Article 187, which is apparent, among other things, from the fact that the works carried out are depreciated over a period of 33 years, which is also the period over which new buildings are depreciated?what is apparent, among other things, from the fact that the works carried out are depreciated over a period of 33 years, which is also the period over which new buildings are depreciated?what is apparent, among other things, from the fact that the works carried out are depreciated over a period of 33 years, which is also the period over which new buildings are depreciated?<br><br>2. Does Article 187 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax have direct effect, so that a taxable person has carried out works on a building, without those works resulting in the converted building qualifies as a “new building” on the basis of the internal law criteria within the meaning of Article 12 of the aforementioned Directive, but where those works have an economic useful life that is identical to the economic useful life of such new buildings for which a review period of 15 years applies, can rely on the application of the review period of 15 years? |
| C-241/23 Dyrektor Izby Administracji Skarbowej w Warszawie | Taxable amount | 73 | 2006/112/EC | Article 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by the Act concerning the conditions of accession of the Republic of Croatia to the European Union and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community,<br><br>must be interpreted as meaning that:<br><br>The taxable amount of a contribution of immovable property by a first company to the capital of a second company in exchange for shares of the latter must be determined on the basis of the issue value of those shares where those companies have agreed that the consideration for that contribution to the capital will consist of that issue value. | Is consideration obtained or to be obtained by the supplier in return for a supply of goods, as referred to in Article 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1, as amended), to be understood as meaning the nominal value of the shares acquired or the issue value, if the parties have stipulated that the consideration is to be the issue value of the shares? |

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| C-207/23 Finanzamt X | Taxable transaction, Taxable amount | 16, 74 | 2006/112/EC | 1. The first paragraph of Article 16 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as meaning that the transfer free of charge of heat produced by a taxable person to other taxable persons for the purposes of their economic activities constitutes an application, by that first taxable person, of goods forming part of his business assets in the form of a disposal free of charge, within the meaning of that provision, that is to be treated as a supply of goods for consideration, and whether or not those other taxable persons use that heat for purposes giving them a right to deduct value added tax is irrelevant in that regard.<br><br>2. Article 74 of Directive 2006/112<br><br>must be interpreted as meaning that the cost price, within the meaning of that provision, includes not only direct manufacturing or production costs but also indirectly attributable costs, such as financing costs, whether or not those costs have been subject to input value added tax. | 1. If a taxable person makes heat from its company available to another taxable person for the latter's economic operations free of charge (in this case: allocation of heat from the cogeneration plant of an electricity provider for the benefit of an agricultural company for the purpose of heating asparagus fields), is this to be regarded as an 'application by a taxable person of goods forming part of his business assets' in the form of a 'disposal free of charge' within the meaning of Article 16 of the VAT Directive? Is the answer to this question dependent on whether the taxable person receiving the heat uses it for purposes that would entitle that person to a deduction of input tax?<br>2. In the case of an application of goods (within the meaning of Article 16 of the VAT Directive), is the cost price within the meaning of Article 74 of the VAT Directive to be calculated solely on the basis of those costs that are subject to input tax?<br>3. Does the cost price include only direct production or generation costs, or does it also include only indirectly attributable costs such as financing costs? |
| C-184/23 Finanzamt T II | Taxable transaction, VAT grouping | 2(1), 4(4) | Sixth VAT Directive | Art. 2 no. 1 and Art. 4 para. 4 subpara. Article 2(2) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment<br><br>must be interpreted as meaning that:<br><br>services supplied for consideration between persons belonging to the same VAT group, made up of persons who are legally independent but closely linked by mutual financial, economic and organisational links, and designated by a Member State as the sole taxable person, are not subject to VAT, even if the VAT payable or paid by the recipient of those services is not regarded as input tax may be deducted. | 1. Does the bringing together of several persons into a single taxable person, as provided for in the second subparagraph of Article 4(4) of Directive 77/388/EEC, have the effect of removing supplies of goods or services made for consideration between those persons from the scope of value added tax as defined in Article 2(1) of that directive?<br>2. Do supplies of goods or services made for consideration between those persons fall within the scope of value added tax in any event in the case where the recipient of the supply of goods or services is not (or is only partly) entitled to deduct input tax, as there is otherwise a risk of tax losses? |
| C-182/23 Makowit | Exemption, Expropriation of land | 2(1)(a), 9(1), 14(2)(a) | 2006/112/EC | Article 2(1)(a) and Article 14(2)(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read together,<br><br>must be interpreted as meaning that:<br><br>a transfer of ownership of parcels of agricultural land by way of expropriation in return for the payment of compensation to the owner of that land must be subject to value added tax (VAT) where that owner is a farmer subject to VAT and acting as such, even if he does not carry out any land marketing activity and has not taken any steps to make such a transfer. | Do the provisions of Article 9(1) of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1, as amended), in conjunction with Article 14(2)(a) thereof, allow a farmer who is liable to pay VAT under general rules and who transfers the ownership of a plot of land to the State Treasury under an expropriation procedure in exchange for compensation related to the change of its intended use for non-agricultural purposes to be regarded as a taxpayer obliged to pay VAT on that compensation due solely to the fact that the plot was earlier used for agricultural activities subject to VAT? |

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| C-179/23 Credidam | Taxable transaction, Supply of services | 2(1)(c), 24(1), 25(c) | 2006/112/EC | Article 2(1)(c), Article 24(1) and Article 25(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as meaning that a collective management organisation for copyright and related rights supplies services, within the meaning of those provisions, where, first, it collects, distributes and pays, by law, to rightholders the remuneration owed to them by certain users defined by law and, secondly, it deducts from that remuneration a management fee which is due to it by those rightholders and which is intended to cover the costs incurred by that activity, in the event that the remuneration thus collected on behalf of those rightholders does not constitute consideration for services supplied, within the meaning of that directive, by those rightholders for the benefit of those users. | 1. Does the collection, distribution and payment of remuneration by collective management organisations, in return for a fee, constitute a supply of services, within the meaning of Article 24(1) and Article 25(c) of Directive 2006/112/EC (the VAT directive), to copyright holders and holders of related rights?<br>2. If the first question is answered in the affirmative, does the work that collective management organisations do for rights holders constitute a supply of services within the meaning of the VAT directive even if the rights holders, on whose behalf collective management organisations collect remuneration, are not deemed to be providing a service to the users who are required to pay that remuneration? |
| C-171/23 UP CAFFE d.o.o | Taxable transaction | 19, 28, 80(1) | 2006/112/EC | Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive (EU) 2016/856 of 25 May 2016, read in the light of the principle of the prohibition of abusive practices, must be interpreted as meaning that, where it is established that the formation of a company constitutes an abusive practice intended to maintain the benefit of the value added tax exemption scheme laid down in point 19 of Article 287 of that Directive 2006/112, in respect of an activity previously carried out, under that scheme, by another company, that Directive 2006/112 requires that the company accordingly formed cannot benefit from that scheme, even in the absence of specific provisions laying down the prohibition of such abusive practices in the national legal system. | Does EU law impose an obligation on the national authorities and courts to determine liability for value added tax (and not to refuse a claim for a refund) where the objective facts of the case indicate that VAT fraud has been committed through the creation of a new company, that is to say, by interrupting the continuity of the previous company's taxable activity, in the case where the taxable person knew, or ought to have known, that it was participating in such an activity, and where, at the time when the chargeable event occurred, national law did not provide for such a determination of liability? |
| C-122/23 Legafact EOOD | Identification of taxable persons, Special scheme for small enterprises | 213, 214, 282, 287(17), 288, 289, 290, 291 | 2006/112/EC | 1. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2009/162/EU of 22 December 2009,<br><br>must be interpreted as not precluding national legislation, adopted by a Member State pursuant to Article 287 of that directive, as amended, which makes entitlement to the value added tax (VAT) exemption provided for in that directive, as amended, for small enterprises subject to the condition that the taxable person whose annual turnover or turnover measured during a period of two consecutive months exceeds the amount specified for that Member State in that provision must lodge an application for VAT registration within a prescribed period.<br><br>2. Directive 2006/112, as amended by Directive 2009/162,<br><br>must be interpreted as not precluding national legislation which provides that a failure by a taxable person to fulfil the obligation to lodge an application for value added tax (VAT) registration within the time limits, in the cases referred to in paragraph 1 of this operative part, results in the incurrence of a tax debt, provided that that legislation, if and in so far as it is not limited to recovering VAT on transactions carried out during the period in which that tax would have been charged if the taxable person had fulfilled his or her obligation to register for VAT within the time limits, complies with the principle of effectiveness in countering infringements | 1. Is a national provision which treats taxable persons differently in respect of the tax exemption provided for under Title XII, Chapter 1, of Council Directive 2006/112 on the common system of value added tax depending on the rapidity with which they reach the turnover threshold for compulsory VAT registration in breach of the principles of the common system of value added tax in the European Union?<br>2. Does Council Directive 2006/112 preclude a national provision under which the tax exemption of a supply under Title XII, Chapter 1, of Council Directive 2006/112 depends on the supplier fulfilling the obligation to apply for compulsory VAT registration in due time?<br>3. What criteria arising from the interpretation of the VAT Directive must be used to assess whether the aforementioned national provision, which provides for the incurrence of a tax debt in the event of late submission of the application for compulsory VAT registration, is a penalty provision? |

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| | | | | of harmonised VAT rules and satisfies the proportionality requirements, in accordance with the case-law of the Court. | |
| C-89/23 Companhia União de Crédito Popular | Exemption | 135(1)(b) | 2006/112/EC | Article 135(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax,<br><br>must be interpreted in the sense that:<br><br>the services relating to the organization of auctions of goods pledged are not of an ancillary nature to the main services relating to the granting of pledged credits, within the meaning of this provision, so that they do not share the tax fate of these main services in terms of value added tax. | For the purposes of determining whether the 11% commission which the law (Article 25 of Decree-Law No 365/99 of 17 September 1999) allots to the lender for the sale of pledged goods is eligible for the exemption provided for in Article 135(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (corresponding to Article 9(27)(a) of the Código do Imposto sobre o Valor Acrescentado (Value Added Tax Code)), can the sale of the pledged goods (Article 19 et seq. of Decree-Law No 365/99 of 17 September 1999), where the borrower fails to pay in accordance with the legal conditions, be regarded as an ancillary service to the services provided by the lender (activity of lending secured by a pledge)? |
| C-87/23 Latvijas Informācijas un komunikācijas tehnoloģijas asociācija | Right to deduct | 2(1)(c), 9(1), 24(1), 28, 73, 168(a) | 2006/112/EC | 1. Article 2(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as meaning that the supply of training services invoiced by a non-profit association, which supply has been subcontracted for the most part to third parties and received subsidies from European funds of up to 70% of the total amount of those services, constitutes a supply of services for consideration, without Article 28 of that directive being applicable, in the absence of an express agency agreement capable of establishing the existence of a supply of services by a taxable person in its own name and on behalf of another person.<br><br>2. Article 73 of Directive 2006/112<br><br>must be interpreted as meaning that subsidies paid to a service provider by a European fund for a specific supply of services are, in accordance with that provision, included in the taxable amount as a payment obtained from a third party.<br><br>3. Article 9(1) of Directive 2006/112 | (1) Must Article 9(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be interpreted as meaning that a not for-profit organisation whose activity is aimed at implementing State aid schemes financed by the European Regional Development Fund is to be treated as a taxable person who carries out an economic activity?<br>(2) Must Article 28 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be interpreted as meaning that an association which does not actually supply training services is nevertheless to be equated with a supplier of services where the services were acquired from another economic operator in order to ensure the implementation of a State aid project financed by the European Regional Development Fund?<br>(3) Pursuant to Article 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, if a supplier of services receives only partial consideration from the recipient of the service for the service supplied (30%) but the remaining cost of the service is covered by an aid payment from the European Regional Development Fund, is the taxable consideration the total amount received by the supplier of services from both the recipient of the service and a third party in the form of an aid payment? |

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| | | | | must be interpreted as meaning that the status of non-profit association enjoyed by an association does not preclude, following an analysis which takes account of all the circumstances of the association's activity and, in particular, the fact that that activity is comparable to the typical conduct of an economic operator in the same sector, that association from being regarded as a taxable person carrying out an economic activity within the meaning of that provision. | |
| C-83/23 H GmbH | Right to deduct | 167, 168(a) | 2006/112/EC | Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, is to be interpreted in the light of the principles of VAT effectiveness and neutrality<br><br>must be interpreted as meaning that:<br><br>the recipient cannot claim directly from the tax authorities of the Member State in whose territory he is established a refund of the VAT which he has paid to the supplier who has erroneously invoiced and paid to the tax authorities of the first Member State the national VAT of that Member State instead of the VAT legally payable in another Member State; if they have already refunded the VAT to the supplier who is in insolvency proceedings. | 1. Does a domestic recipient of a service have a so-called direct right of action against the domestic tax authorities, in accordance with the judgment of the Court of Justice of the European Union of 15 March 2007, Reemtsma Cigarettenfabriken (C-35/05, EU:C :2007:167), when<br><br>a) the recipient of the supply is issued by a supplier, who is also established in the country, with an invoice showing the domestic VAT, which the recipient of the supply pays, with the supplier duly deducting the VAT indicated on the invoice pays off,<br><br>b) however, the service charged is a service provided in another Member State,<br><br>c) the recipient of the supply is therefore denied the deduction of domestic input tax, since no domestic tax is legally due,<br><br>d) the supplier subsequently revises the invoice so that it no longer indicates internal tax and consequently reduces the amount of the invoice by the amount of tax that was indicated,<br><br>e) the recipient of the performance is unable to enforce claims for payment against the provider due to insolvency proceedings relating to the property of the provider; and<br><br>f) it is possible for the supplier, who has not yet been identified in the other Member State, to identify himself for VAT purposes in that Member State, so that he can subsequently send an invoice to the recipient of the supply, stating a VAT number of this Member State. specifying the VAT of this Member State, which would entitle the |

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| | | | | | recipient of the supply in this Member State to deduct input VAT by means of the special procedure under Directive 2008/9/EC of 12 February 2008?<br><br>2. Is it relevant to the answer to this question that the domestic tax authorities have refunded the tax to the supplier on the basis of a mere revision of the invoice, although the supplier has not done anything with regard to his assets due to the initiation of insolvency proceedings? paid back to the recipient of the service? |

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| C-73/23 Chaudfontaine Loisirs | Exemption | 135(1)(i) | 2006/112/EC | (1) Do Article 135(1)(i) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principle of fiscal neutrality permit a Member State to exclude from the benefit of the exemption contained in that provision only gambling which is provided electronically while gambling which is not provided electronically remains exempt from VAT?<br><br>(2) Do Article 135(1)(i) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principle of fiscal neutrality permit a Member State to exclude from the benefit of the exemption contained in that provision only gambling which is provided electronically to the exclusion of lotteries which remain exempt from VAT whether or not they are provided electronically?<br><br>(3) Does the third paragraph of Article[2]67 of the Treaty on the Functioning of the European Union permit a higher court to decide to maintain the effects of a provision of national law which it annuls because of an infringement of national law without ruling on the infringement of EU law which was also raised before it, and, therefore, without referring for a preliminary ruling the question of the compatibility of that provision of national law with EU law or asking the Court about the circumstances in which it could decide to maintain the effects of that provision in spite of its incompatibility with EU law?<br><br>(4) If the answer to one of the previous questions is in the negative, could the Constitutional Court maintain the past effects of the provisions which it annulled because of their incompatibility with national rules on the division of powers when those provisions were also incompatible with Council VAT Directive 2006/112/EC, in order to prevent budgetary and administrative difficulties from arising from reimbursement of taxes already paid?<br><br>(5) If the answer to the previous question is in the negative, can the taxable person be reimbursed the VAT which it has paid on the actual gross margin on the gaming and betting which it operates on the basis of provisions incompatible with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principle of fiscal neutrality? |

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| C-68/23 Finanzamt O | Taxable transaction, vouchers | 30a, 30b | 2006/112/EC | 1. Articles 30a and 30b paragraph 1 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive (EU) 2017/2455 of 5 December 2017<br><br>are to be interpreted as follows:<br><br>The classification of a voucher as a "single-purpose voucher" within the meaning of Article 30a(2) of Directive 2006/112, as amended, depends only on the conditions set out in that provision, including the requirement that the place where the service is provided which is addressed to final consumers and to which this voucher relates, must be established at the time of issue of this voucher, regardless of whether this voucher is transferred between taxable persons acting in their own name and established in Member States other than that, in which these end users are located.<br><br>2. Article 30b(2) of Directive 2006/112, as amended by Directive 2017/2455<br><br>is to be interpreted as follows:<br><br>The resale by a taxable person of "multi-purpose vouchers" within the meaning of Article 30a(3) of Directive 2006/112, as amended, may be subject to VAT provided that it is classified as a supply of services to the taxable person who, in return for those vouchers, actually delivers the goods to the end consumer or actually provides the services to the end consumer. | 1. Does a single-purpose voucher exist within the meaning of Article 30a(2) of the VAT Directive where:<br>– the place of supply of the services to which the voucher relates is established in known in so far as those services are intended to be supplied to final consumers within the territory of a Member State,<br>– but the fiction of the first subparagraph of Article 30b(1) first sentence of the VAT Directive, according to which the transfer of the voucher between taxable persons with a view to providing the service to which the voucher relates, also gives rise to a service in the territory of another Member State?<br>2. If the first question is answered in the negative (and hence a multi-purpose voucher exists in the present case): Does subparagraph 1 of Article 30b(2) of the VAT Directive, according to which the actual provision of the services in return for a multi-purpose voucher accepted as consideration or part consideration by the supplier is subject to VAT pursuant to Article 2 of the VAT Directive, whereas each preceding transfer of that multi-purpose voucher is not subject to VAT, preclude a differently substantiated tax obligation (judgment of the Court of Justice of the European Union of<br>3 May 2012, Lebara, C-520/10, EU:C:2012:264)? |
| C-60/23 Digital Charging Solutions | Taxable transaction | 14, 15, 24, 28 | 2006/112/EC | 1. Article 14(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2009/162/EU of 22 December 2009, read in conjunction with Article 15(1) of Directive 2006/112, as amended,<br><br>must be interpreted as meaning that the supply of electricity for the purposes of charging an electric vehicle at a charging point forming part of a public network of such points constitutes a supply of goods within the meaning of the former provision.<br><br>2. Article 14 of Directive 2006/112, as amended by Directive 2009/162, read in conjunction with Article 15(1) of Directive 2006/112, as amended,<br><br>must be interpreted as meaning that the charging of an electric vehicle at a network of public charging points to which the user has access through a subscription concluded with a company other than the operator of that network entails that the electricity consumed is deemed to have been supplied, first, by the operator of that network to the company offering access thereto and, second, by that company to that user, even if the latter chooses the quantity, time and place of that charging as well as the manner of use of the electricity, when that company acts in its own name | Does a supply to the user of an electric vehicle consisting of the charging of the vehicle at a charging point constitute a supply of goods under Articles 14(1) and 15(1) of the VAT Directive? 1<br><br>If the answer to Question 1 is in the affirmative, is such a supply then to be deemed to be present at all stages of a chain of transactions which include an intermediary company, where the chain of transactions is accompanied by a contract at every stage, but only the user of the vehicle has the right to decide on matters such as quantity, time of purchase and charging location, as well as how the electricity is to be used? |

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| | | | | but on behalf of the user under a commission contract within the meaning of Article 14(2)(c) of Directive 2006/112, as amended. | |
| C-37/23 Geocivi | Liability to pay VAT | 2, 206, 273 | 2006/112/EC | Articles 2, 206 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with the principle of fiscal neutrality,<br><br>must be interpreted as precluding national legislation that provides, for taxable persons affected by the earthquake that struck the region of Abruzzo (Italy), for a 60% reduction of the value added tax amount normally payable by those persons for the period from April 2009 to December 2010. | Do the principles set out in the order [of 15 July 2015,] Revenue Agency v Nuova Invincibile srl, C-82/14, EU:C:2015:510, and in the judgment of 17 July 2008, Commission v Italy, C-132/06, EU:C:2008:412, preclude a legislative provision, such as that resulting from Article 33(28) of Legge (Law) No. 183 of 2011, which allows taxpayers to obtain a refund, at the rate of 60%, of the VAT paid in the period between April 2009 and December 2010, in relation to the earthquake which affected the Abruzzo territory on 6 April 2009? |
| C-791/22 Hauptzollamt Braunschweig | Tax point, Place of Supply of goods | 30, 60, 62, 70, 71 | 2006/112/EC | Article 30 paragraph 1, Article 60 and Article 71 paragraph 1 subparagraph. 2 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>are to be interpreted as follows:<br><br>they conflict with national legislation pursuant to Article 215(4) of Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code as amended by Regulation (EC) No. 2700/2000 of the European Parliament and of the Council of 16 November 2000, as amended, applies accordingly to import VAT for the purpose of determining its place of origination. | Is Directive 2006/112/EC and, in particular, Articles 30 and 60 thereof, infringed where Article 215(4) of Regulation (EEC) No 2913/92 is declared under a national provision to be applicable mutatis mutandis to import VAT? |

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| C-746/22 Slovenské Energetické Strojárne | Refund | 1, 20(1) and (2), 21, 23(1) and (2), 26 and Article 29(1) and (2) | 2008/9 | 1. The first subparagraph of Article 23(2) of Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, for taxable persons who are not established in the Member State of refund but in another Member State, read in the light of the principles of neutrality of value added tax (VAT) and effectiveness,<br><br>must be interpreted as meaning that:<br><br>it precludes national legislation under which a taxable person who has submitted an application for a refund of VAT is prohibited from providing, at the stage of the complaint before a second-instance tax authority, additional information, within the meaning of Article 20 of that directive, requested by the first-instance tax authority and which that taxable person has not provided to that authority within the one-month period laid down in Article 20(2) of that directive, since that period does not constitute a limitation period.<br><br>(2) Article 23 of Directive 2008/9<br><br>must be interpreted as meaning that:<br><br>it does not preclude national legislation under which a tax authority must close the VAT refund procedure where the taxable person has not provided, within the prescribed period, additional information requested by that authority under Article 20 of that directive and that, in the absence of that information, the application for a refund of VAT cannot be processed, provided that the decision to close the application for VAT is considered to be a decision rejecting that application for a refund, within the meaning of Article 23(1) of that directive, and that it may be the subject of appeals satisfying the requirements laid down in Article 23(2), of the first paragraph of that directive. | 1. Should Article 23(2) of Council Directive 2008/9/EC laying down detailed rules for the refund of value added tax provided for in Directive 2006/112/EC to taxable persons not resident in the Member State of refund but are established in another Member State (hereinafter 'Directive 2008/9') must be interpreted as meaning that the conditions for bringing legal remedies laid down in that directive do not preclude national legislation — namely, Paragraph 124(3) of Law CLI of 2017 on tax procedure (hereinafter: 'Law CLI of 2017') – which, when assessing applications for VAT refunds pursuant to Council Directive 2006/112/EC on the common system of value added tax ( after this:'VAT Directive') does not allow the submission of new facts or new evidence at the objection stage which the applicant was aware of before the adoption of the primary decision, but which he has failed to adduce or submit despite a request from the tax authorities , which constitutes a substantive restriction that goes beyond the conditions laid down by Directive 2008/9 with regard to form and time-limit?<br><br>2. Does an affirmative answer to the first question mean that the one-month period laid down in Article 20(2) of Directive 2008/9 can be regarded as an expiry period? Does this practice comply with the right to an effective remedy and to a fair trial enshrined in Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'), Articles 167, 169 and 170 and Article 171(1) of the VAT Directive and with the principles of fiscal neutrality, effectiveness and proportionality developed by the Court of Justice of the European Union?<br><br>3. Must the provisions of Article 23(1) of Directive 2008/9 concerning the total or partial rejection of the refund application be interpreted as not precluding national legislation — namely, Paragraph 49(1) under b) of Act CLI of 2017 – whereby the tax authorities terminate the procedure if the taxpayer requesting a refund does not comply with its obligation to provide additional information despite the request to that effect from the tax authorities, the request cannot be assessed in the absence thereof and there is no ex officio continuation of the procedure? |

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| C-741/22 Casino de Spa and Others | Exemption | 135(1)(i) | 2006/112/EC | (1) Article 135(1)(i) of the VAT Directive has no direct effect. It is neither unconditional nor sufficiently precise.<br><br>(2) The principle of neutrality of VAT does not preclude a differentiation between gambling which is provided electronically and gambling which is not provided electronically. Instead, there are objective reasons for this and for the differentiation between gambling which is provided electronically and lotteries which are organised electronically.<br><br>(3) In proceedings relating solely to a business' own tax liability the question of State aid to a third party is inadmissible. In principle, those liable to pay a tax cannot rely on the argument that the exemption enjoyed by other businesses constitutes State aid in order to avoid payment of that tax. | 1/ Must Article 135(1)(i) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principle of neutrality be interpreted as precluding a Member State from using different treatment for online lotteries offered by Loterie Nationale [(the Belgian national lottery)], a public establishment, which are exempt from value added tax, and other online games of chance offered by private operators, which are subject to value added tax, assuming that they are similar supplies?<br>2/ In answering the previous question, in order to determine whether there are two similar categories which are in competition with each other and which require the same treatment for the purposes of value added tax, or whether there are separate categories which allow for different treatment, must the national court consider only whether or not the two forms of games are in competition with each other from the point of view of the average consumer, in the sense that services are similar where they have similar characteristics and meet the same needs from the point of view of consumers, the test being whether their use is comparable, and where the differences between them do not have a significant influence on the decision of the average consumer to use one or the other of those services (alternative criterion), or must it take into account other criteria such as the existence of a discretionary power on the part of the Member State to exempt certain categories of games from VAT and to subject others to it, the fact that lotteries belong to a distinct category of games, referred to in Article 135(1)(i) of the VAT Directive, the different legal frameworks which apply to Loterie Nationale and to other games of chance, the different supervisory authorities or the societal and gambler protection objectives pursued by the legislation applicable to Loterie Nationale?<br>3/ Must the principle of sincere cooperation set out in Article 4(3) of the Treaty on European Union, read in conjunction with Article 267 of the Treaty on the Functioning of the European Union, the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and, where applicable, the principle of effectiveness, be interpreted as meaning that they allow the constitutional court of a Member State to maintain – on its own initiative and without a reference for a preliminary ruling under Article 267 TFEU – on the basis of a provision of national law – in this case Article 8 of the loi spéciale du 6 janvier 1989 sur la Cour constitutionnelle (Special Law of 6 January 1989 on the Constitutional Court) – the retrospective effect of national provisions on value added tax which were found to be contrary to the national Constitution and were annulled on that ground and whose non-conformity with EU law was also relied on in support of the action for annulment before the national court, without, however, that complaint having been examined by the latter, on the general ground of 'budgetary and administrative difficulties which repayment of taxes already paid would cause', thus completely depriving taxable persons subject to VAT of the right to reimbursement of the VAT collected in breach of EU law?<br>4/ If the answer to the preceding question is in the negative, do the same provisions and principles, interpreted, in particular, in the light of the judgment of 10 April 2008, Marks & Spencer, C-309/06, under which the general principles of Community law, including that of fiscal neutrality, give a trader who has made supplies a right to |

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| | | | | | recover the sums mistakenly claimed in respect of them (judgment of 10 April 2008, Marks & Spencer, C-309/06), require the Member State concerned to refund to the taxable persons the VAT collected in breach of EU law where, as in the present case, it subsequently follows from a judgment of the Court of Justice, in response to questions referred for a preliminary ruling, that the annulled national provisions are not in conformity with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and that the decision of the Constitutional Court to maintain the retrospective effect of the provisions annulled by it is not in conformity with EU law?<br>5/ Does the different treatment introduced by Articles 29, 30, 31, 32, 33 and 34 of the loi-programme du 1er juillet 2016 (Programme Law of 1 July 2016), which were annulled by Constitutional Court judgment No 34/2018 of 22 March 2018, but the effects of which were maintained after that date in respect of the taxes already paid for the period from 1 July 2016 to 21 May 201[8], between lotteries, whether terrestrial or online, and other online games and forms of betting create a selective advantage in favour of the operators of those lotteries and thus aid granted by the Belgian State or through Belgian State resources which distorts or threatens to distort competition by favouring certain undertakings, which is incompatible with the internal market within the meaning of Article 107 of the Treaty on the Functioning of the European Union?<br>6/ If the answer to the preceding question is in the affirmative, does the obligation on the Member States to safeguard the rights of individuals affected by the unlawful implementation of the aid in question, in accordance with, inter alia, the judgment of 5 October 2006, Transalpine Ölleitung in Österreich, C-368/04, the principle of sincere cooperation and the general principles of Community law, including that of fiscal neutrality, which give a trader who has made supplies a right to recover the sums mistakenly charged in respect of them (judgment of 10 April 2008, Marks & Spencer, C-309/06), allow taxable persons who have been charged VAT on the basis of unlawful State aid to recover the equivalent of the tax paid in the form of damages for the loss suffered? |
| C-733/22 Valentina Heights | Rate | 98(2) | 2006/112/EC | Article 98(2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with point 12 of Annex III thereto,<br><br>must be interpreted as precluding national legislation under which the reduced rate of value added tax (VAT) for accommodation provided in hotels and similar establishments is subject to a requirement that such an establishment hold a categorisation certificate or a provisional categorisation certificate, in so far as that legislation does not limit the application of the reduced rate of VAT to concrete and specific aspects of the category of provision of accommodation provided in hotels and similar establishments or, in the event that it limits the application of that rate to those concrete and specific aspects, it does not comply with the principle of fiscal neutrality. | 1 Is Article 98(2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with point 12 of Annex III to that directive, to be interpreted as meaning that the reduced rate set out in this provision for accommodation provided by hotels and similar establishments may be applied where these establishments are not categorized in accordance with the national legislation of the requesting State?<br><br>2 If this question is answered in the negative, Article 98(2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with point 12 of Annex III, to this Directive, then be interpreted as permitting a selective application of the reduced rate to concrete and specific aspects of a given category of services where the condition applicable is that hotels and similar establishments may only provide accommodation which, in accordance with |

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| C-709/22 Syndyk Masy Upadłości A | Split payment | 206, 226, 273, 395 | 2006/112/EC | Articles 273 and 395 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, and Council Implementing Decision (EU) 2019/310 of 18 February 2019 authorising Poland to introduce a special measure derogating from Article 226 of Directive 2006/112/EC on the common system of value added tax,<br><br>must be interpreted as not precluding national legislation which provides that the amount of value added tax (VAT) deposited on a separate VAT account, which a supplier has with a banking institution, may be used only for limited purposes, namely, in particular, the payment of the VAT due to the tax authority or the payment of VAT on invoices received from suppliers of goods or services. | 1. Should the provisions of Council Implementing Decision (EU) 2019/310 of 18 February 2019 authorizing Poland apply a special measure derogating from Article 226 of Directive 2006/112/EC on the common system of tax on the added value (OJ 2019 L 51 , p. 19), the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1 ), in particular Articles 395 and 273 thereof,and the principles of proportionality and neutrality are interpreted as precluding a national provision and practice whereby, in the circumstances of the present case, a bankruptcy trustee is refused permission to transfer money held in a taxable person's VAT account (split payment mechanism) to a bank account designated by this taxpayer?<br><br>2. Should Article 17(1) of the Charter of Fundamental Rights of the European Union (OJ 2007 C 303, p. 1), entitled 'Right to property', read in conjunction with Article 51(1) and Article 52(1) thereof, be interpreted as precluding a national provision and practice whereby, in the circumstances of the present case, a bankruptcy trustee is refused permission to transfer money to the VAT account of a taxpayer state (split payment mechanism) so that this money, which belongs to an insolvent taxpayer, is frozen in that VAT account and the bankruptcy trustee is prevented from fulfilling his duties in the context of pending insolvency proceedings?<br><br>3. Should the principle of the rule of law enshrined in Article 2 of the Treaty on European Union (OJ 2007 C 326, p. 391) and the principle of legal certainty which it is intended to achieve, the principle of sincere cooperation (Article 4(3) , of that Treaty) and the principle of good administration (Article 41(1) of the Charter of Fundamental Rights), taking into account the context and purposes of Council Decision 2019/310 and of the provisions of Directive 2006/ 112/EC, be interpreted as precluding a national practice whereby a bankruptcy trustee is refused permission to transfer money held in a taxable person's VAT account (split payment mechanism),which determines the purposes of insolvency proceedings opened by a Polish bankruptcy court, which is empowered to do so under Article 3(1) of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) ( OJ 2015 L 141, p. 19) cannot be achieved, thus creating a situation in which the Treasury, as a result of the application of an inadequate national measure, is favored as a creditor to the detriment of other creditors?as a result of the application of an inadequate national measure, as a creditor is favored |

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| C-696/22 C | Chargeable event | 63, 64, 66, 168 | 2006/112/EC | 1. Article 64 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2008/117/EC of 16 December 2008,<br><br>must be interpreted as meaning that:<br><br>The scope of paragraph 1 of that article covers the supply of services on a continuous basis for a certain period of time, such as those carried out, under Romanian law, by court-appointed administrators and liquidators for the benefit of undertakings which are the subject of insolvency proceedings, in so far as, subject to the verifications to be carried out by the referring court, These benefits give rise to successive statements or payments.<br><br>(2) Article 64(1) of Directive 2006/112, as amended by Directive 2008/117,<br><br>must be interpreted as meaning that:<br><br>In the event that the payment of remuneration for services falling within the scope of that provision cannot take place because of the lack of liquidity in the debtor's accounts, that provision does not permit the inference that value added tax becomes chargeable only when the remuneration is actually received.<br><br>(3) Article 168(a) of Directive 2006/112, as amended by Directive 2008/117,<br><br>must be interpreted as meaning that:<br><br>In order to establish the existence of a direct and immediate link between, on the one hand, a particular input transaction and, on the other, output transactions in respect of which VAT is deductible, it is necessary to determine the objective content of those transactions, which entails taking into consideration all the circumstances in which those transactions took place, namely, in particular, the actual use of the goods and services acquired by the input taxable person and the sole cause of that acquisition, without the increase in turnover or the increase in the volume of taxable transactions being relevant factors in that regard.<br><br>(4) The general principle of EU law of respect for the rights of the defence<br><br>must be interpreted as meaning that:<br><br>In the context of an administrative procedure for lodging a complaint against a tax assessment determining value added tax, where the competent authority adopts a decision based on new matters of fact and of law, on which the person concerned has not been able to comment on it, it is required that the decision adopted at the end of that procedure be annulled if, In the absence of that irregularity, that procedure could have led to a different outcome, even though, at the request of the person | (1) Do Articles 63, 64 and 66 of Council Directive 2006/112/EC on the common system of value added tax preclude an administrative practice of a tax authority – such as the one in the present case, which imposed additional payment obligations on the taxable person, a professional limited liability company (SPRL) through which administrators of insolvency proceedings may exercise their profession – consisting in defining the chargeable event and the chargeability as being at the time at which the services were provided in the context of insolvency proceedings, where the insolvency administrator's fee was determined by the insolvency court or the assembly of creditors, with the result that the taxable person is obliged to issue invoices no later than the fifteenth day of the month following the month in which the chargeable event occurred?<br>(2) Do Articles 63, 64 and 66 of Council Directive 2006/112/EC on the common system of value added tax preclude an administrative practice of a tax authority, such as the one in the present case, consisting in imposing additional payment obligations on the taxable person – a professional limited liability company (SPRL) through which administrators of insolvency proceedings may exercise their profession – in so far as that taxable person issued invoices and collected VAT only on the date on which payments were received for services provided in the context of insolvency proceedings, even though the general assembly of creditors established that the payment of the insolvency administrator's fee is subject to the availability of liquid assets in the debtors' accounts?<br>(3) In the case of a co-branding agreement between a law firm and the taxable person, is it sufficient, for the purpose of granting the right to deduct, that the taxable person, when proving the existence of a direct and immediate link between the purchases made by the upstream taxable person and the downstream transactions, demonstrate, after the agreement, an increase in the turnover/value of the taxable transactions, without further supporting documentation? If so, what are the criteria to be taken into account in order to determine the actual scope of the right to deduct?<br>(4) Is the general EU-law principle of respect for the rights of the defence to be interpreted as meaning that, where, in the course of a national administrative procedure for ruling on a complaint against a notice of assessment that has established the payment of additional VAT, new factual and legal arguments are accepted as compared with those contained in the tax audit report on the basis of which the notice of assessment was issued, and the taxable person has been granted interim judicial protection measures, pending the decision of the court dealing with the substance of the case, by suspending the debt, the court hearing the action may take the view that there has been no breach of that principle without examining whether the outcome of that procedure might have been different, had it not been for such an irregularity? |

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| | | | | concerned, the enforcement of that tax assessment was suspended in parallel with the judicial action brought against that decision. | |
| C-676/22 B2 Energy | Proof of recipient of the goods to apply Exemption for Intra-Community supplies | 138 | 2006/112/EC | Article 138(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be construed to mean that<br><br>a supplier established in a Member State who has supplied goods to another Member State must be denied the right to exemption from value added tax, unless this supplier has demonstrated that the goods were supplied to a recipient who has the status of a taxable person in the latter Member State, and if, with regard to the factual circumstances and the information provided by the supplier, the data necessary to verify that this recipient had this status is not available. | Must Article 138(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be interpreted in accordance with the judgment of the Court of Justice of the European Union of 9 December 2021 in Case C-154/20, Kemwater ProChemie, EU:C:2021:989, such that the making of a claim for exemption from value added tax (VAT) upon the supply of goods to another EU Member State must be denied, without the tax authorities needing to prove that the supplier of the goods was involved in VAT fraud, if the supplier has failed to prove supply of goods to a specific recipient in another EU Member State having the status of the taxable person specified in the tax documents, even though, with a view to the facts of the case and the information provided by the taxable person, there is data available to verify that the actual recipient in the other EU Member State did indeed have that status? |

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| C-674/22 Gemeente Dinkelland | Interest | | 2006/112/EC | In the light of all the foregoing considerations, the answer to the questions referred is that EU law must be interpreted as not requiring the payment of interest to a taxable person as from the payment of an amount of value added tax (VAT) which is subsequently refunded by the tax authority, where that refund results, in part, from the finding that that taxable person, due to errors in its accounts, did not fully exercise its right to deduct input VAT for the years concerned and, in part, from an amendment, with retroactive effect, of the detailed rules for calculating the deductible VAT relating to the general costs of that taxable person where those rules are established under the sole responsibility of that taxable person. | 1. Must the legal rule that default interest must be reimbursed because there is a right to a refund of taxes levied in breach of EU law be interpreted as meaning that, where a taxable person has been granted a refund of turnover tax, default interest must be reimbursed to that taxable person in a situation where:<br>a. the refund is the result of administrative errors on the part of the taxable person, as described in this ruling, and for which the inspector cannot be blamed in any way;<br>b. the refund is the result of a recalculation of the allocation key for the deduction of turnover tax on general costs, under the circumstances described in this ruling?<br>2. If question 1 is answered in the affirmative, from what day is there a right to the reimbursement of default interest? |
| C-657/22 Bitulpetrolium | Reporting | 2, 250, 273 | 2006/112/EC | 1) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, and the principle of proportionality<br><br>must be interpreted in the sense that:<br><br>they oppose national provisions or practices under which, in the event of reintroduction into the tax warehouse of energy products intended to be used as fuel, so that they are subsequently marketed, the absence of notification of this re-introduction to the competent authority as well as the absence, in the receipt notes and reversal invoices relating to these products, of indications relating to the marking and coloring of said products result, as a sanction for non-compliance of these conditions, the application to the same products, whatever their actual use, of the higher excise rate provided for diesel intended for use as fuel.<br><br>2) Article 2(1)(a), Article 63 and Article 78(1)(a) of Council Directive 2006/112/EC of 28 November 2006 relating to the system common value added tax,<br><br>must be interpreted in the sense that:<br><br>they oppose national provisions or practices under which, in the event of reintroduction into the tax warehouse of energy products intended for use as fuel, value added tax is due on the amount fixed by the tax authority as an excise supplement, due to the application to said products of the excise rate provided for diesel intended for use as fuel, unless a taxable transaction consisting of a delivery of the energy product is carried out concerned for its use as fuel. | 1. Are national provisions and practices such as those at issue in the present case, according to which the reintroduction into a tax warehouse of a heating fuel (heating oil) in the absence of a customs inspection [constitutes] an alleged infringement of the warehousing procedure justifying the application of excise duty at the rate fixed for gas oil – a fuel whose excise duty is more than 21 times higher than the excise duty on heating oil – contrary to the principle of proportionality and to Article 2(3), Article 5 and Article 21(1) of Directive 2003/96/EC[?]<br>2. Are national provisions and practices such as those at issue in the present case, according to which VAT is charged on additional amounts determined by the tax authority by way of excise duty on gas oil as a penalty for non-compliance with the customs supervision arrangements of the taxable person, as a result of the taxable person reintroducing into the warehouse energy products of the heating oil type, on which excise duty had already been paid, and which have been refused by customers and remain intact and [in storage] until a [new] buyer is identified, contrary to the principle of proportionality, the principle of neutrality of VAT and Articles 2, 250 and 273 of Directive 2006/112/EC? |

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| C-644/22 BPFL | Exemption | 135(1)(g) | 2006/112/EC | 1. Article 135(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as meaning that the members of a pension fund performing, under a collective pension scheme, a pension agreement providing for pension entitlements and retirement benefits, the amount of which – albeit based on a standard pension or occupational income and the number of years of employment of each member – may vary under certain conditions as a result of the investments made by that pension fund, may be regarded as bearing the investment risk only where that amount depends primarily on the performance of those investments. For the purposes of that assessment, the number of years during which the pension entitlement of a member has accrued or the fact that the accrual of pension entitlements was interrupted at a certain point in time as far as a pension fund was concerned are irrelevant. The fact that the risk is borne individually or collectively, in the event of, inter alia, bankruptcy, or that an employer acted as a guarantor during a certain period of time for the targeted pension accrual, are relevant factors, without being decisive per se.<br><br>2. Article 135(1)(g) of Directive 2006/112, read in the light of the principle of fiscal neutrality,<br><br>must be interpreted as meaning that, in order to determine whether a pension fund that is not an undertaking for collective investment in transferable securities may benefit from the exemption provided for under that provision, it is necessary not only to carry out a comparison with such an undertaking but also to assess whether, in the light of the legal and financial situation of the member in relation to the pension fund, that pension fund is comparable to other funds which, without being undertakings for collective investment in transferable securities, are regarded by the Member State concerned as being special investment funds for the purposes of that provision. | 1) Must Article 135(1)(g) of the VAT Directive be interpreted as meaning that unit-holders in a pension fund such as the one at issue in the main proceedings can be regarded as bearing investment risk, and does this mean that the pension fund constitutes a 'special investment fund' within the meaning of that provision? Is it relevant in that regard:<br>– whether unit-holders bear an individual investment risk or is it sufficient that unit-holders as a collective – and no one else – bear the consequences of the investment results?<br>– what the magnitude of the collective or individual risk is?<br>– to what extent the amount of the pension benefit depends also on other factors, such as the number of years of pension accrual, salary level and the actuarial interest rate?<br>2) Does the principle of tax neutrality require that, for the application of Article 135(1)(g) of the VAT Directive, in the case of funds which are not UCITS, it must be assessed not only whether they are comparable to UCITS but also whether, from the perspective of the average consumer, they are comparable to other funds that are not UCITS funds but are regarded by the Member State as special investment funds? |

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| C-639/22 X | Exemption | 135(1)(g) | 2006/112/EC | 1. Article 135(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<br><br>must be interpreted as meaning that the members of a pension fund performing, under a collective pension scheme, a pension agreement providing for pension entitlements and retirement benefits, the amount of which – albeit based on a standard pension or occupational income and the number of years of employment of each member – may vary under certain conditions as a result of the investments made by that pension fund, may be regarded as bearing the investment risk only where that amount depends primarily on the performance of those investments. For the purposes of that assessment, the number of years during which the pension entitlement of a member has accrued or the fact that the accrual of pension entitlements was interrupted at a certain point in time as far as a pension fund was concerned are irrelevant. The fact that the risk is borne individually or collectively, in the event of, inter alia, bankruptcy, or that an employer acted as a guarantor during a certain period of time for the targeted pension accrual, are relevant factors, without being decisive per se.<br><br>2. Article 135(1)(g) of Directive 2006/112, read in the light of the principle of fiscal neutrality,<br><br>must be interpreted as meaning that, in order to determine whether a pension fund that is not an undertaking for collective investment in transferable securities may benefit from the exemption provided for under that provision, it is necessary not only to carry out a comparison with such an undertaking but also to assess whether, in the light of the legal and financial situation of the member in relation to the pension fund, that pension fund is comparable to other funds which, without being undertakings for collective investment in transferable securities, are regarded by the Member State concerned as being special investment funds for the purposes of that provision. | The question referred for a preliminary ruling is identical to the first question in Case C-644/22]. |
| C-606/22 Dyrektor Izby Administracji Skarbowej w Bydgoszczy | Taxable amount | 73 | 2006/112/EC | Article 1(2) and Article 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Directive 2010/45 /EU of the Council of 13 July 2010, read in conjunction with Article 78(a) thereof,<br><br>must be interpreted,<br><br>in the light of the principles of fiscal neutrality, effectiveness and equal treatment, in the sense that they oppose a practice of the tax administration of a Member State under which a rectification of the value added tax (VAT) due by means of a tax declaration is prohibited when supplies of goods and services have been carried out by applying a VAT rate that is too high, on the grounds that these operations have not given rise to to invoicing, but to the issuance of cash register receipts. Even in these circumstances, the taxable person having wrongly applied a VAT rate that is too high is entitled to submit a request for reimbursement to the tax administration of the Member State concerned, the latter not being able to claim unjust enrichment. of | Should Article 1(2) and Article 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1, as amended) and the principles of neutrality, proportionality and equal treatment are interpreted as precluding a practice of national tax authorities according to which, by reference to the lack of a national legal basis and to the existence of unjust enrichment,no revision of the taxable amount and of the tax due is allowed when sales of goods and services to consumers at an excessive VAT rate have been recorded using a cash register and confirmed by means of fiscal receipts instead of VAT invoices, without the price (gross value of sales) being changed as a result of that revision? |

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| | | | | that taxable person only if it has established, following an economic analysis which takes into account all the relevant circumstances, that the economic burden that the tax unduly collected has placed on the said taxable person has been entirely neutralized. | |
| C-573/22 Foreningen C e.a. | Standstill provision | 370 | 2006/112/EC | 1. Article 2(1)(c) and Article 370 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with point 2 of Part A of Annex X to that directive,<br><br>must be interpreted as not precluding a Member State which, on 1 January 1978, imposed value added tax on public broadcasting activities financed by a compulsory statutory fee paid by any owner of equipment capable of receiving broadcasting programmes from continuing to tax those activities, irrespective of whether those activities are covered by the concept of 'supply of services for consideration' within the meaning of Article 2(1)(c) of that directive.<br><br>2. Article 370 of Directive 2006/112, read in conjunction with point 2 of Part A of Annex X to that directive,<br><br>must be interpreted as not precluding a Member State which, on 1 January 1978, imposed value added tax on public broadcasting activities financed by a compulsory statutory fee paid by any person who owned a radio or television set, from continuing to tax those activities where the legislation relating to that fee was amended after that date so that that fee is levied for the possession of any device capable of receiving broadcasting programmes, including a smartphone or computer.<br><br>3. Article 370 of Directive 2006/112, read in conjunction with point 2 of Part A of Annex X to that directive,<br><br>must be interpreted as not precluding a Member State which, on 1 January 1978, imposed value added tax on public broadcasting activities financed by a compulsory statutory fee, from continuing to tax those activities where the legislation on that fee was amended after that date so as to allow a small part of the revenue from that fee to be used to finance, first, broadcasters which, despite not being public bodies, carry out public broadcasting activities and, second, media or film undertakings which are public bodies or have been set up by public broadcasting bodies and which contribute to broadcasting activities, without carrying out those activities themselves. | 1. Is Article 370, read in conjunction with point 2 of Annex X, Part A, of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, to be interpreted as permitting the Member States concerned to impose VAT on a statutory media licence fee to finance the non- commercial activities of public radio and television bodies, notwithstanding the absence of a "supply of services for consideration" within the meaning of Article 2(1) of that Directive?<br>If question 1 is answered in the affirmative, the Court of Justice is asked to answer the following questions referred for a preliminary ruling:<br>2. Is Article 370, read in conjunction with point 2 of Annex X, Part A, of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, to be interpreted as meaning that a Member State's option to impose VAT on a statutory media licence fee as specified in question 1 may be maintained if, after the entry into force, on 1 January 1978, of Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes (Sixth Directive), the Member State has altered the licensing system from charging a licence fee for possessing radio and television equipment to charging a licence fee for possessing any device which can receive audiovisual programmes and services directly, including smartphones, computers, etc.?<br>3. Is Article 370, read in conjunction with point 2 of Annex X, Part A, of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, to be interpreted as meaning that a Member State's option to impose VAT on a statutory media licence fee as specified in question 1 may be maintained if, after the entry into force, on 1 January 1978, of Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes (Sixth Directive), the Member State has altered the licensing system so that a smaller proportion of the licence fee resources will, at the discretion of the Minister for Culture, be used to finance (i) radio and television bodies which receive public subsidies but are not themselves public, and (ii) media and film organisations which contribute to but do not themselves carry out radio and television activities? |

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| C-537/22 Global Ink Trade | 167, 168(a), 178(a) | 2006/112/EC | 1. The principle of the primacy of Union law must be interpreted as requiring the national court, having exercised its power under Article 267 TFEU, to disregard the legal assessments of a higher national court if it considers that that those assessments are incompatible with EU law in the light of the interpretation of a provision of EU law made by the Court in the form of a judgment or reasoned order within the meaning of Article 99 of its Rules of Procedure. However, that principle does not preclude national legislation which merely requires national lower courts to give reasons for any deviation from those assessments.<br><br>2. Articles 167, 168(a) and 178(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, in conjunction with the principles of fiscal neutrality and legal certainty, are no longer applicable to be interpreted as not precluding a practice whereby the tax administration denies a taxable person the right to deduct VAT on the acquisition of goods supplied to him on the ground that invoices for those purchases are due to circumstances demonstrating a lack of care attributable to that taxpayer, are not credible, whereby these circumstances are generally assessed on the basis of the guidelines for taxpayers published by the tax administration, provided that<br><br>– that practice and these guidelines do not call into question the duty of the tax administration to legally examine the objective circumstances which allow it to be concluded that that taxable person has committed VAT evasion or knew or should have known that the transaction in question was included in such tax evasion to sufficiently demonstrate<br><br>– this practice and these guidelines do not burden this taxpayer with complex and comprehensive checks in relation to his contractual partner,<br><br>– the requirements applied by the tax administration correspond to those of these guidelines and<br><br>– the published guidelines for taxpayers were clearly formulated and their application was foreseeable for those affected.<br><br>3. Directive 2006/112 must be interpreted as meaning that:<br><br>- if the tax administration intends to deny a taxable person the right to deduct input VAT on the grounds that he or she has been involved in VAT evasion in the form of a VAT carousel, this is contradicted by the fact that the tax administration limits itself to establishing that this transaction is part of carousel invoicing is<br><br>– it is the responsibility of the tax administration, on the one hand, to precisely determine the elements of tax evasion and to prove the fraudulent actions and, on the other hand, to prove that the taxpayer was actively involved in this tax evasion or that he knew or should have known that the tax evasion was the basis for the right to deduct The alleged purchase of goods or services was included in this evasion, but | 1) Does the fact that a court in a Member State, adjudicating at last instance, interprets a decision of the Court of Justice (adopted in the form of an order in response to a request for a preliminary ruling specifically concerned with the case-law developed by the self-same court adjudicating at last instance) as meaning that there is nothing in that decision which has or is likely to have the effect of overturning earlier decisions of the Court of Justice or bringing about a change in the previous national case-law developed by the court adjudicating at last instance, constitute an infringement of the principle of the primacy of EU law and of the right to effective judicial protection guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter')?<br>2) Must the principle of the primacy of EU law and the right to effective judicial protection guaranteed in Article 47 of the Charter be nterpreted as meaning that the principle of the primacy of decisions of the Court of Justice applies even in the case where a court in a Member State, adjudicating at last instance, also relies on [the] earlier judgments [of the Court of Justice] as precedent? Is a different answer conceivable, in the light of Article 99 of the Rules of Procedures of the Court of Justice, where the decision of the Court of Justice takes the form of an order?<br>3) Within the framework of the taxable person's general obligation to exercise scrutiny, irrespective of the performance and nature of the economic transaction shown on the invoices concerned, and regard being had to Articles 167, 168(a) and 178(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive') and to the principles of legal certainty and fiscal neutrality, may the taxable person be required, as a condition of benefiting from the right to deduct VAT — and notwithstanding the absence of a legislative provision to this effect in the Member State concerned —, to maintain contact in person with the issuer of the invoice or to contact his supplier only at the officially communicated e-mail address? May these circumstances be regarded as revealing a failure, demonstrated by objective facts, to exercise the due diligence to be expected of the taxable person, account being taken of the fact that those circumstances did not yet exist at the time when the taxable person carried out the relevant checks before entering into the business relationship in question, but are features of the existing business relationship between the parties?<br>4) Are a legal interpretation and a practice developed in a Member State, whereby a taxable person who has an invoice in conformity with the VAT Directive is refused the benefit of the right to deduct VAT on the ground that he has not acted with due diligence in the course of trade because he has failed to demonstrate conduct such as to support the determination that his activity was not simply confined to the mere receipt of invoices meeting the formal requirements laid down, consistent with the aforementioned articles of the VAT Directive, with the principle of fiscal neutrality and, above all, with the case-law of the Court of Justice — which, when interpreting those provisions, places the burden of proof on the tax authority —, even in the case where the taxable person has enclosed all documentation relating to the transactions at issue and the tax authority has rejected other offers to furnish evidence made by the taxable person during the tax proceedings?<br>5) In the light of the aforementioned articles of the VAT Directive and the fundamental principle of legal certainty, may the finding, reached in connection with |

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| | | | this does not necessarily mean that all actors involved in the tax evasion and their respective actions would have to be identified. | due diligence, that the issuer of the invoice was not engaged in any economic activity at all, constitute an objective fact, in the case where the tax authority takes the view that there has been a failure to demonstrate the actual performance (and, therefore, the genuine existence) of an economic transaction — as documented by means of invoices, contracts and other supporting accounting documentation, and by correspondence, and as confirmed by the statements of the warehousing undertaking and the taxable person's director and employee —, and bases that view exclusively on the statement of the supplier undertaking's director denying the existence of that transaction, without taking into account the circumstances in which that statement was made, the interests of the person making the statement or the fact that, according to the documents in the case file, that undertaking had been founded by the very person making the statement and, according to the information available, an agent was acting on its behalf?<br>6) Must the provisions of the VAT Directive relating to the deduction of VAT be interpreted as meaning that, in the case where the tax authority discovers during the tax proceedings that the goods mentioned on the invoices concerned are of Community origin and that the taxable person is the second member of a chain [of supplies], the configuration of that scenario — given that goods of Community origin are exempt from VAT and the first Hungarian purchaser is not therefore entitled to deduct VAT, only the second member of that chain being so entitled — is an objective fact sufficient in itself to demonstrate tax evasion, or must the tax authority, in that case, also show, on the basis of objective facts, which member or members of that chain committed tax evasion, by what modus operandi it or they did so, and whether the taxable person was or could have been aware of this through the exercise of due diligence? |