

## Court of Justice of the European Union ('CJEU') - recent case law on VAT in a nutshell

16<sup>th</sup> July 2020

### **C-835/18 Terracult - incorrectly imposed additional VAT**

The company originally declared the VAT exemption for intra-Community supplies of goods. The inspection by tax authorities found out that the goods did not leave Romania and assessed local Romanian VAT, which the company paid. Subsequently, the company realized that the goods were subject to the local reverse-charge mechanism and issued corrective invoices aiming to adjust additionally assessed VAT. The CJEU concluded that the assessment of the original VAT amount during the VAT audit is no bar for making the later adjustment.

### **C-215/19 Veronsaajien - hosting center**

The computer hosting services comprised the provision of a server cabinet with a lockable door for its customers' own servers in the company building. The provider ensured proper operation of the property including power supply and services to ensure the best possible operating environment for the use of the servers, such as temperature and humidity control. According to the CJEU these services do not constitute VAT exempted leasing or letting of immovable property, neither any other service connected with immovable property. The fact that the customer had a limited access to the cabinets and the cabinets were easily removable from the building also played its role.

### **C-374/19 HF - investment partially wasted**

The company has built a cafeteria annexed to the retirement home. In the cafeteria the company provided refreshment to residents of the retirement home within the scope of VAT exempt social services but also to external visitors as a service subject to VAT. The provision of services to external customers have proved to be non-profitable over time and, at the end, the cafeteria served only for VAT exempt activities. The Court has confirmed the tax administrator's opinion that the company is obliged to adjust the original VAT deduction although the operation of cafeteria was a wasted investment in relation to external customers.

### **C-231/19 Blackrock Investments Management - single supply split**

The company managed both special investment funds (SIFs) (exempt activity) and other funds (taxed activity). For this purpose the company acquired service from abroad by application of the reverse charge mechanism. The CJEU dealt with the matter whether or not it is possible to tax a single supply (service) proportionally according to the use of tax exempt and tax non-exempt supplies at the output. The CJEU considered the services supplied to be a single supply with one single VAT treatment without being possible to divide the supply or determine its VAT treatment based on majority of the funds managed. This was a very specific situation.

If you are interested in some of the case laws above we would be pleased to discuss them with you in more detail.



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