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Fiscal Bulletin



Summary:

1. **Deduction Right for the VAT Incurred Following Acquisitions from Inactive Partners - C-101/16 S.C. Paper Consult S.R.L. Vs. DRFP Cluj**

Deduction Right for the VAT Incurred Following Acquisitions from Inactive Partners - C-101/16 S.C. Paper Consult S.R.L. Vs. DRFP Cluj

On October 19th, 2017 the European Court of Justice (ECJ) ruled in the case **C-101/16 S.C. Paper Consult S.R.L. Vs. DRFP Cluj** enforcing in a categorical manner the fact that the national legislation based on which the VAT deduction right is refused because the provider has been declared as inactive is contrary to the provisions of the VAT Directive 2006/112/CE.

Thus, the ECJ's ruling establishes the fact that **the deduction right for the VAT incurred following acquisitions from inactive business partners, cannot be refused in a systematic and final manner**, not allowing for proving the inexistence of a fraud or of a tax income loss.

In addition, despite the efforts of the Romanian tax authorities to limit in time the applicability of the ECJ's ruling by bringing into discussion the serious financial consequences that would arise if VAT deductions would be granted to all taxpayers who had concluded transactions with business partners declared inactive since 2007, **the ECJ has stated that, in the case at hand, limiting in time the effects of the ruling is not necessary.**

Thus, in case you have acquisitions from inactive business partners, depending on each situation (e.g. you have not deducted VAT, or the VAT deduction right has been refused and you are in the process of drafting an administrative appeal or you have a final decision of a Court, etc.), **we consider that an applied case by case analysis to identify potential action points is more than welcomed.**

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Editors

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