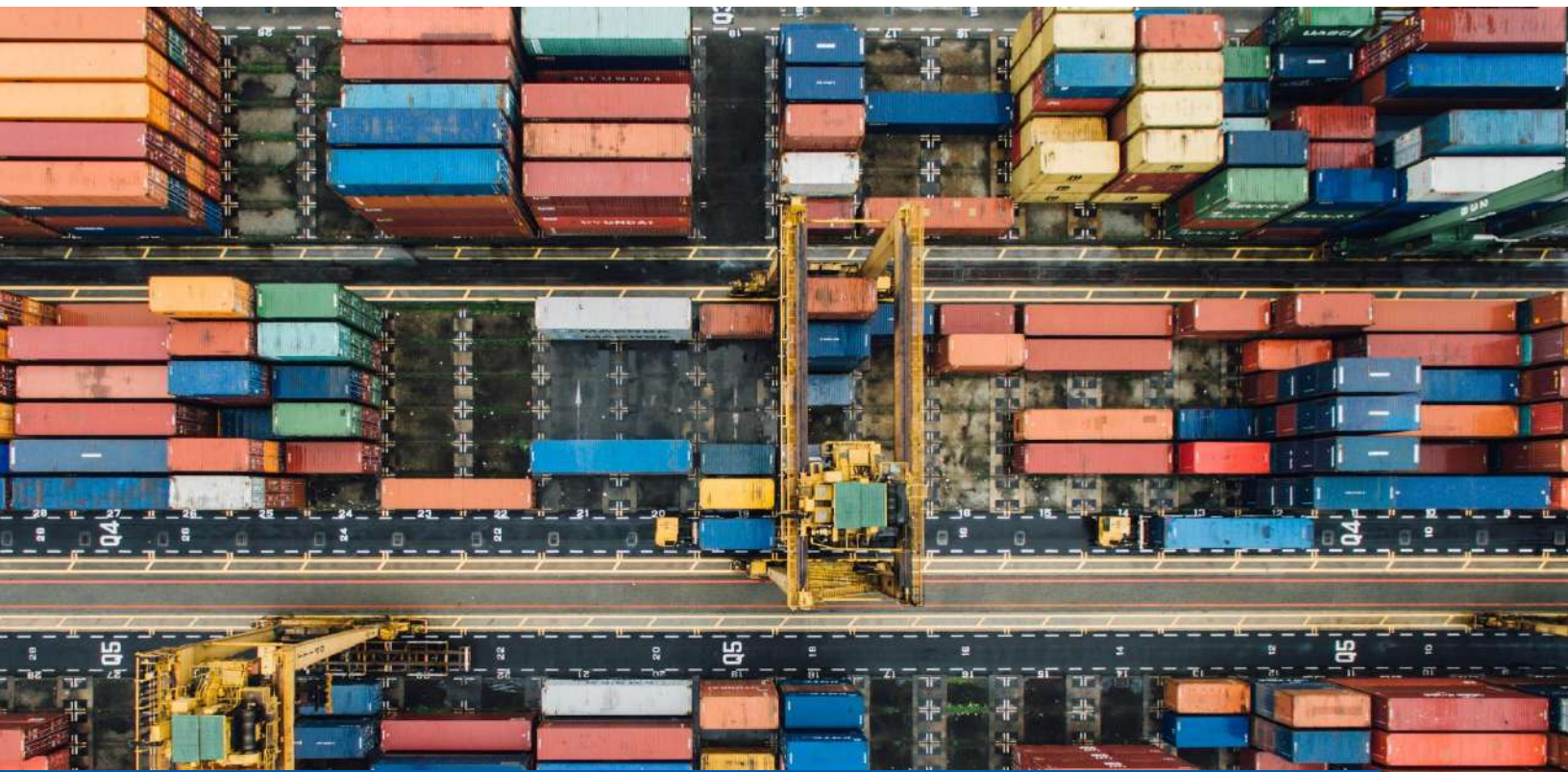


News Flash

October 28, 2020



ECJ Judgement: Adjustment of initial VAT deduction as a result of volume rebates

Adjustment of initial VAT deduction as a result of volume rebates

Adjustment shall, in particular, be made where, after the initial VAT deduction is claimed, **some change occurs in the factors** used to determine the amount to be deducted, for example where purchases are cancelled or **price reductions are obtained**.

On 28 May 2020, the Court of Justice of the European Union, in the World Comm Trading case (Case C-684/18), addressed the VAT consequences of rebates for businesses receiving such rebates.

A volume discount on reaching a certain quantity of purchased goods

World Comm Trading Gfz (established in Romania) hereinafter referred to as “World Comm” and the Nokia group (with its headquarter in Finland) **concluded a distribution agreement** based on which World Comm purchased a series of mobile telephony products **from the Nokia group**.

The products were delivered to World Comm in Romania from Finland, Germany, Hungary, and from Romania. Nokia was VAT registered in these countries, at the time it was supplying goods in and from these countries.

World Comm **received a discount, on reaching a certain quantity**, regardless of the location from which the Nokia products were delivered (Romania or intra-Community). For these discounts, Nokia Corporation (HQ) **issued a single invoice every quarter with the minus sign and its Finnish VAT number**.

The dispute was about the Romanian part of the rebates processed through one credit note (as part of a global settlement) without adjusting any

VAT, **notwithstanding that the initial supplies were invoiced with Romanian VAT**.

The receiving of a discount for both local and intra-Community purchases on a single invoice

World Comm **recorded the entire amount as an intra-Community acquisition, even if part of the goods were delivered from Romania**. The Romanian tax authorities did not agree with this approach. The tax authorities state that World Comm has incorrectly adjusted the right to deduct for the entire discount received. World Comm should have distinguished between domestic and intra-Community supplies.

***Note:** Nokia had already ended its activities in Romania at the time of the tax inspection. As a result, it would no longer have had the possibility to invoice the discounts for domestic deliveries separately.*

The Court of Justice decision

The Court ruled that the Member State’s tax **authorities are required to demand an adjustment in the input VAT initially deducted** as a result of the reduction of the tax base to the

extent it related to the local purchases. Article 185 of Directive 2006/112 must be interpreted as meaning that an adjustment of a deduction of value added tax (VAT) initially made is required in respect of a taxable person established in a

Member State, even where that taxable person's supplier has ceased his activities in that Member State and that supplier can therefore no longer claim repayment of part of the VAT he has paid.

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