



TAX ALERT

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Debt assignment agreement and VAT È a ruling of a panel of 7 judges of the Supreme Administrative Court

On 19 March 2012 the enlarged panel of 7 Judges of the Supreme Administrative Court (NSA) passed a ruling in the case I FPS 5/11, resolving that a purchase of debts at own risk was not a supply of service when the difference between the face value of the debts and their purchase price reflected the actual economic value of the sale.

On 29 April 2010 the Supreme Administrative Court issued a decision whereby the following emerging legal issue, raising serious doubts, was submitted to be examined by the panel of seven NSA Judges: "Does a purchase of debts for the purpose of their recovery under an assignment agreement, as specified in Art. 509 and following of the Civil Code of 23 April 1964, constitute a debt recovery service within the meaning of Art. 8 par. 1.1 and Art. 43 par. 1.1 of the Act on Goods and Services Tax (VAT) of 11 March 2004?".

KSP contact :

El bieta Lis
KSP Partner
T: +48 32 731 68 53
E: elzbieta.lis@ksplegal.pl

KSP Legal & Tax Advice
ul. Chorzowska 50
40-121 Katowice

T: +48 32 731 68 50
F: +48 32 731 68 51

E: kancelaria@kspelagal.pl
www.ksplegal.pl

NSA, instead of a resolution on the issue, as planned for today, has passed a ruling (through the enlarged panel of 7 judges) whereby it has shared the ECJ's view expressed in the ruling of 27 October 2011 (C-93/10) in its entirety. ECJ ruled that an operator who, at his own risk, purchased defaulted debts at a price below their face value did not effect a supply of services for consideration and did not carry out an economic activity.

The above fact will significantly affect taxpayers carrying out the activity of debt trading, who paid VAT on debt purchase. On the one hand the verdict opens up an opportunity to recover VAT, while on the other it may mean that a tax on civil law transactions will have to be paid. In this context it is necessary to wait for the written substantiation of the ruling passed by NSA and to analyze the transactions made in the past to determine how they were taxed.

If you wish to be provided with additional information in this respect, please contact us.

We hope the above information proves useful. The information is not a legal opinion or advice. Please contact us if you wish to obtain complete information or legal advice.