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## **The CJEU judgement concerning the three-month deadline for the settlement of input tax in the case of Intra-Community acquisition of goods inconsistent with the VAT Directive has been published**

**On 10<sup>th</sup> May, 2021 in the EU Official Journal the CJEU judgement of the inconsistency with the UE law was published concerning the three-month deadline for the settlement of input tax on intra-Community acquisition (judgement of 18<sup>th</sup> March 2021, C-895/1). This means the beginning of the period for renewal of the ended tax and administrative court proceedings and for the resumption (reopening) of the decisions or judgments of administrative courts and to apply for the refund (to obtain full refund).**

The CJUE found the lack of neutrality of VAT as inconsistent with the UE law, when the correction was not connected with the law abuse. The correction of the intra-Community acquisition based on the current regulations made after 3 months period from the end of month, in which tax obligation arose, results in outstanding tax liability and necessity to pay interests for late payment.

The CJEU judgment provides grounds to correct settlements made in accordance with the provisions of the VAT Act that were questioned by the CJEU and allows to apply for a refund of the excess payment with the interest for late payment. **In order to obtain a refund of the excess payment with full interest (i.e. due from the date of payment of the arrears to the date of the return), the request for a refund should be submitted within 30 days from the date of publication of the CJEU judgment in the Official Journal of the EU, i.e. until 9<sup>th</sup> June, 2021.** If the request is submitted after this deadline, the taxpayer will be entitled to receive interest for the period from the date of payment to the 30th day from the publication of the judgment.

In the event that **decisions or judgments of administrative courts have been already issued in these cases** and are unfavorable to taxpayers - the ruling of the CJEU constitutes grounds for the resumption (reopening) of such proceedings. In the case of tax proceedings, the deadline for submitting an application is one month from the date of publication (i.e. 10<sup>th</sup> June, 2021), and in the case of administrative court proceedings - three months from the date of publication of the CJEU judgment (i.e. 10<sup>th</sup> August 2021).

**With regard to future settlements in terms of intra-Community acquisition - taxpayers may disregard the questioned restrictions** as they are inconsistent with the Directive and declare output and input VAT in the same VAT return.

Moreover, **in our opinion , taxpayers may also apply the CJEU judgment to adjust their tax settlements on import of services.**

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If you are interested in obtaining further information, or would like to discuss the impact of the above judgment please contact:

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