

A marriage may be regarded as a VAT taxpayer! – Groundbreaking CJEU ruling in Case C-213/24, Grzera

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On 3rd April 2025, the CJEU delivered a highly significant judgment in the Polish Case C-213/24, *Grzera*. The ruling concerns, firstly, whether a **seller** can be considered a VAT taxpayer if they order the preparation of the transaction to a professional, whose activities resulted in making the plots more attractive. Secondly – and perhaps most importantly – whether a **marriage** under a joint marital property regime can be regarded as a one single **VAT taxpayer**.

According to the CJEU's judgment, the answer to both questions is **YES!**

WHAT THE CJEU RULED?

The CJEU ruled that, a **seller who engages a professional agent, dividing plots, arrange amenities or change their classification an construction plots, may be regarded as a VAT taxpayer**. As a result, the sale (supply) does not constitute ordinary management of private assets and **is subject to VAT**.

While the CJEU's standpoint on the taxation of transactions conducted by spouses is not particularly surprising, however its recognition of a marriage as a VAT taxpayer is groundbreaking!

The CJEU's reasoning refers to **the perspective of third parties** - since spouses acted jointly in the sale, they did not conducted a transaction as a two separate entities from an external point of view. Another important factor is whether they **shared the economic risk** of business activities.

IMPLICATIONS FOR VAT

The judgment overturns the long-standing approach of Polish tax authorities regarding the sale of jointly-owned marital property. Until now, each spouse was considered as a separate VAT taxpayer (reporting based on a 50/50 ownership rule).

This raises a number of questions and doubts, such as:

- should a marriage register jointly for VAT and obtain a tax ID (NIP) prior to a transaction subject to VAT? What would such a registration process look like?
- what about invoices issued and VAT returns filed under the previous practice – will corrections be needed? Would retroactive VAT registration be required, or does the ruling apply prospectively?
- what are the implications for the right to deduct input VAT?

The consequences of this ruling may significantly impact various entities, particularly on the VAT field, such as:

- married couples selling property, especially land, that was initially private property;
- spouses leasing their real estates;
- purchasers of real estates, lessees of apartments, easement beneficiaries. There is a doubt whether purchasers still have the right to deduct input VAT if invoices were issued only by one spouses or by two of them according to "50/50 rule".

In case you are interested in the above information and its impact on your business, please contact:

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