

First Polish tax case at the General Court of the EU in favour of taxpayers – landmark judgment on VAT deduction

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The General Court of the European Union has issued a landmark ruling in the case (T 689/24, I. S.A. v. Director of KIS), in which it declared that Polish provisions requiring possession of an invoice as a condition for VAT deduction are incompatible with EU law. The dispute concerned a provision that has been part of Polish law since the introduction of the VAT Act in 2004, and which had been applied by Polish tax authorities for over 20 years.

The Court fully supported the arguments put forward by the legal representatives, tax advisors from MDDP: Tomasz Michalik and Jakub Warnieło, who argued that the right to deduct VAT arises independently of possessing the invoice. The invoice is merely a condition for exercising this right, not its foundation.

Significance of the judgment for taxpayers

This ruling will have significant implications for tax practice in Poland. According to the judgment, taxpayers can now deduct VAT for the month when the tax liability arises, provided the invoice was issued before the submission of the tax return, rather than, as previously required, in the next accounting period.

Benefits for entrepreneurs from the Court's decision:

- faster VAT deduction, accelerating the VAT recovery process,
- improved cash flow due to a shorter waiting period for VAT refunds,
- less frozen tax, which is especially crucial in light of the mandatory National e-Invoicing System (KSeF).

Change in legislation in Poland?

It is expected that the EU Court's judgment will lead to swift changes in Polish regulations, moving away from treating possession of an invoice as the basis for the right to deduct VAT. This will be particularly important in the context of KSeF, which introduces new challenges for businesses related to the mandatory issuing, sending, and receiving of invoices.

Rare and important ruling

This is the first Polish tax case before the EU Court following the reform of the EU judicial system, making the judgment exceptional and groundbreaking. It represents a

fundamental shift aimed at ensuring full VAT neutrality. The ruling opens the door for further changes that may contribute to the actual implementation of this principle.

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