VAT NEWSLETTER
May 2026

I. REGULATIONS AND UPDATES

The AEAT clarifies the effects of the unratified Royal Decree-Laws 16/2025 and 2/2026

La The Spanish Tax Agency has published a notice regarding the tax implications of Royal Decree-Law 16/2025, of December 23, and Royal Decree-Law 2/2026, of February 3, both of which have not been ratified, in accordance with the criteria established by the Directorate General of Taxes.

With regard to Value-Added Tax, the notice states that, for the 2026 tax year, the limits for the application of the simplified regime and the special regime for agriculture, livestock, and fishing that were in effect from 2016 to 2024 remain in place. This conclusion is based on the thirteenth transitional provision of the VAT Law, as amended by Royal Decree-Law 16/2025.

Likewise, on April 9, 2026, the AEAT published an extension of the notice regarding the waiver of Immediate Information Reporting and withdrawal from the Monthly Refund Registry. This extension states that the special deadline for waiving the electronic maintenance of accounting records through the AEAT's Electronic Office and for requesting voluntary deregistration from REDEME was extended until February 16, 2026.

Additionally, the notice also includes criteria regarding personal income tax (IRPF), including the application, for 2025, of certain measures that were in effect on the tax accrual date, as well as the validity of certain waivers and revocations of the objective assessment method submitted during the validity period of the aforementioned Royal Decree-Laws.

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Countdown to electronic invoicing in Spain: the draft Ministerial Order on the public electronic invoicing solution enters the public hearing process

As part of the implementation of mandatory electronic invoicing between businesses and professionals, on April 17, 2026, the Draft Ministerial Order regulating the public electronic invoicing solution was submitted for public consultation and information. The regulation implements the provisions set forth in the third final provision of Royal Decree 238/2026, dated March 25, which approved the regulatory framework for the mandatory B2B electronic invoicing system in Spain.

As discussed in a previous article, Royal Decree 238/2026 establishes a hybrid model for electronic invoicing, based on the use of private electronic invoice exchange platforms, the public solution managed by the State Tax Administration Agency, or a combination of both approaches. However, the effective implementation of the system was contingent upon the approval of the corresponding Ministerial Order, which is responsible for specifying the technical aspects of the public solution.

The draft Order regulates the technical and functional elements necessary for the operation of said public solution, which will provide services for the issuance of electronic invoices, interconnection between platforms, and retrieval of invoices. Likewise, the public solution will act as a universal and mandatory repository for electronic invoices issued, sent, or received within the framework of the system, with free access for users.

Notable among the aspects addressed are the semantic data model and the syntax applicable to invoices issued or interconnected through the public solution, which must comply with the European standard EN16931 under UBL syntax. It also regulates the unique coding of electronic invoices, methods of authentication, identification, and representation, procedures for issuing, interconnecting, and transmitting certified copies, as well as payment notification and invoice retrieval services.

One of the key aspects of the draft is the regulation of the so-called "certified copy." In cases where obligated businesses or professionals do not use the public solution for the issuance or interconnection of their invoices, they must simultaneously submit a certified electronic copy of each invoice to said public solution. This copy must comply with the technical requirements set forth in the Order and may not include embedded files.

The future Ministerial Order also establishes the electronic payment notification service. In particular, the invoice recipient must report, where applicable, the rejection of the invoice, the date of full payment, and the payment due date. Additionally, certain relevant additional information may be reported for the purposes of the regulations on late payments. The issuer, for its part, may communicate information regarding the collection or non-payment of invoices and any discrepancies with respect to the information communicated by the recipient.

Regarding the implementation timeline, the Ministerial Order is expected to take effect on October 1, 2026. If this date is confirmed in the final text, the deadlines for the effective application of the electronic invoicing obligation would begin to run from that moment: twelve months for businesses and professionals whose transaction volume exceeds 8 million euros and twenty-four months for the rest. Consequently, the obligation would likely apply starting October 1, 2027, for the former and October 1, 2028, for the latter.

Finally, it is worth reiterating that this requirement must be distinguished from the regime applicable to invoicing computer systems and software, known as VERIFACTU and regulated by Royal Decree 1007/2023. Although both regulatory frameworks relate to the digitization of invoicing processes, they serve different purposes: B2B electronic invoicing focuses on the issuance, transmission, receipt, and interoperability of electronic invoices and on tracking their status and payments; whereas VERIFACTU regulates the technical requirements that certain computer-based invoicing systems must meet.

II. EUROPEAN UNION CASE LAW

Judgment of March 25, 2026, of the General Court of the European Union. Case T-221/25 (TUI Belgium NV)

Preliminary ruling — Taxation — Common system of VAT — Transactions subject to VAT — Supply of services for consideration — Exemptions — Standstill clause — Power of Member States to maintain certain taxes on a transitional basis — Article 28(3)(a) and (4) of the Sixth Directive 77/388/EEC and Article 370 of Directive 2006/112/EC — Services provided by travel agencies relating to trips taken outside the European Union — Annex E, point 15, of the Sixth Directive 77/388 and Annex X, Part A, point 4, of Directive 2006/112 — Subsequent amendment of national legislation — Absence of an express exception to the exemption.

This judgment resolves a preliminary ruling requested by the Belgian Court of Cassation in the dispute between the travel agency group TUI Belgium NV and the Belgian State, concerning the interpretation of the so-called standstill clause, which allows Member States to temporarily maintain VAT liability for transactions that, under the Directive, should be exempt.

The appellants, nine Belgian companies comprising the Travel4You group, sought a refund of VAT on travel agency services relating to trips taken outside the European Union during the period from November 2004 to December 2014, arguing that those services had been exempt from VAT since the reform of the Belgian VAT Act on January 1, 2000.

The Directive's regime provides that, where services provided by third parties to the travel agency are performed outside the Union, the agency's provision is treated as an intermediary activity exempt from VAT. Belgian legislation prior to 2000 contained an express exception to this exemption for travel agencies involved in transport, accommodation, or entertainment services. However, as of January 1, 2000, that express exception was repealed.

The appellants argued that, with the repeal of that provision, the Belgian State could no longer continue to subject such services to VAT without infringing the Directive. The Court of Cassation referred two questions to the General Court for a preliminary ruling, focusing on the requirements and scope of the standstill clause.

In the first question, the Court asks whether the standstill clause requires the Member State to adopt a national legal provision expressly establishing the exception to the exemption. The General Court answers in the negative, stating that the only requirement imposed by the Union is that national legislation had provided for the taxation of such services prior to January 1, 1978, without requiring any specific legislative form to maintain the subjection to VAT.

The second question concerns whether the legislative amendment of 2000 constitutes legislation that is no longer identical to the previous one and is based on a different rationale, which would preclude the application of the standstill clause. The General Court notes that that clause does not cover legislation that introduces a new rationale or establishes procedures that are essentially different from the previous ones.

The Court concludes, however, that the repeal of the express exception in 2000 did not in any way alter the VAT liability of travel agencies' services relating to travel outside the Union, nor did it alter the logic of the system. The reform was intended to refine the legislative drafting since, on the one hand, it eliminated a legal presumption that was no longer necessary because the VAT liability of these services could be directly inferred from other provisions in force; and, on the other hand, it sought to prevent the coexistence of the old provision with the new rules from creating a risk of double taxation. It was, therefore, a formal adjustment to the wording of the law, without this implying any change in the logic or substance of the applicable regime.

Consequently, the General Court holds that Article 370 and Annex X of Directive 2006/112/EC must be interpreted as meaning that a legislative amendment that removes an express provision excluding the exemption and replaces it with provisions from which VAT liability is only implicitly inferred must not be regarded, by that fact alone, as legislation that is essentially different from the previous one. The Belgian State was therefore entitled to continue taxing those supplies under the standstill clause.

Opinion of Advocate General Maja Brkan of April 15, 2026. Case T-397/25 (A&P Deco NV)

Reference for a preliminary ruling — Tax law — Value-added tax — Directive 2006/112/EC — Adjustment of deductions — Transfer of all or part of the assets — Lease of business premises by the transferor to the transferee.

The dispute concerns A&P Deco NV, a company operating a garden center that in 2013 transferred the business to WR Woestijnroos BV, retaining ownership of the facilities, which it leased almost in their entirety to the transferee. Those facilities had been constructed between 2004 and 2005 and renovated between 2008 and 2011, with A&P Deco having claimed the input VAT deduction for such works. Following the transfer, the Belgian tax authorities adjusted that deduction in proportion to the remaining time of the adjustment period, on the grounds that the facilities were now being used for a VAT-exempt lease.

A&P Deco challenged the adjustment, arguing that the facilities were part of the transfer of a universal estate of assets, such that the adjustment should depend on the use the transferor made of the facilities. Consequently, the Court of Cassation referred the question to the Court of Justice as to whether, in the event that business premises are leased to the beneficiary of a business transfer, the deduction of input VAT incurred for their acquisition, construction, or renovation must be adjusted.

The Advocate General proceeds from the premise that, under the VAT Directive, when a taxable person deducts input VAT on the purchase or construction of an asset, they do so because that asset is intended for use in taxable transactions. If the use of the asset subsequently changes and it is used for exempt transactions (such as an exempt lease), the circumstances that justified the initial deduction have changed, and the law therefore requires the adjustment (i.e., proportional refund) of the VAT initially deducted.

In this way, the Advocate General addresses the central question of whether the lease of the commercial property can be considered an integral part of the transfer of a universal estate.

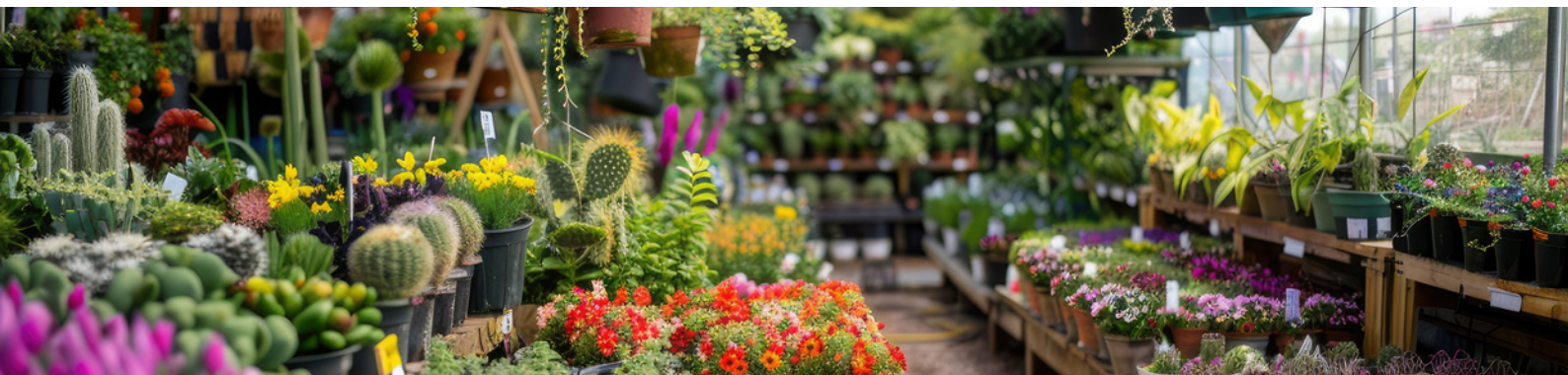
Article 19 of the VAT Directive applies only to supplies of goods, whereas a lease constitutes a supply of services and not a supply of goods, because the lessee does not acquire the power to dispose of the property as if it were the owner, but only a temporary and renewable right of use. Unlike a transfer of assets, a lease creates an ongoing relationship between the parties, which makes it incompatible with the concept of a transfer of a universal estate provided for in Article 19 of the Directive.

Furthermore, the Advocate General refers to the judgment in the Schriever case, in which the Court of Justice held that the transfer of a retail business's inventory and equipment, concurrent with the lease of the premises, may constitute a universal transfer of assets, provided that the transferred assets are sufficient to continue the business. However, it cannot be inferred from that judgment that the lease of the property forms part of the transferred business. The Court expressly described the situation as a case in which the transferred business did not include real estate, with the lease being a prerequisite for the continuity of the business, but not an element of the transfer.

In any event, since ownership of the property is not transferred, the transferor remains the holder of the rights pertaining to it for VAT purposes and, therefore, it is the transferor who continues to use the property within the meaning of the Directive, remaining subject to the rules governing the adjustment of the deduction.

Finally, the Advocate General concludes that the principle of fiscal neutrality, whose specific dimension in the context of VAT requires that deductions accurately reflect the use of the property for taxable transactions, such that maintaining the initial deduction despite using the property for an exempt lease would be contrary to that principle.

Furthermore, the transferor-lessor must not be treated more favorably than any other lessor who transfers a property to the transferee without any connection to the transferred business. Consequently, the Advocate General recommends that the Court of Justice rule that Articles 19 and 29 of the Directive must be interpreted as meaning that the taxable person remains obliged to account for the input VAT on the acquisition, construction, alteration, or renovation of business premises, even if they lease them, with exemption from tax, to the transferee who continues to operate the business.



Judgment of April 22, 2026, of the General Court of the European Union. Case T-233/25 (Mokoryte SRL)

Preliminary ruling — Taxation — Common system of VAT — Taxable amount — Reduction in the event of cancellation, termination, non-payment, or reduction of the price — Article 90(1) of Directive 2006/112/EC — Acquisition by a subcontractor of a contractor's claim against the developer — Bad debt — Right of the subcontractor to benefit from the reduction of the taxable amount.

This judgment resolves a preliminary ruling requested by the High Court of Romania in the context of the dispute between Mokoryte SRL and the Regional General Directorate of Public Finance of Romania. The issue concerns the interpretation of Article 90 of Directive 2006/112/EC, specifically whether a subcontractor may reduce the VAT taxable base when the claim it acquired through assignment is definitively uncollectible.

The dispute stems from a construction contract entered into in 2007 for the construction of a business center in Romania, in the performance of which the contractor, Modern Bau SRL, subcontracted part of the work to Mokoryte SRL. In December 2014, the project developer was declared bankrupt. To settle the debt that the contractor itself owed to the subcontractor, a dual payment arrangement was agreed upon in July 2015: on the one hand, a cash payment of a portion in euros, and on the other, the

assignment to the subcontractor, by public deed, of the right to claim against the insolvent developer for the remaining amount. With this, the contractor considered its debt to the subcontractor fully settled.

Once the developer was struck off the Commercial Register in April 2021 without having settled the assigned debt, the subcontractor issued corrective invoices to reduce the VAT taxable base and requested the corresponding refund from the Romanian Tax Authority. The Tax Authority, however, denied both the reduction and the refund, on the grounds that the beneficiary of the subcontractor's services was the contractor and not the developer, and additionally imposed a VAT amount payable by the subcontractor.

After unsuccessfully exhausting administrative and judicial remedies, the subcontractor filed an appeal with the High Court of Romania, which referred the following question to the General Court for a preliminary ruling: Does Article 90(1) of the VAT Directive preclude a subcontractor-assignee from adjusting the VAT taxable base in the event of definitive non-payment of the assigned claim by the contractor against the insolvent developer?

In resolving the issue, the Court notes that Article 90 (1) embodies the principle of neutrality, according to which the taxable amount consists of the consideration actually received, and the tax authority may not collect an amount of VAT in excess of that actually received by the taxable person. The Court emphasizes that the right to reduce the tax base belongs solely to the taxable person liable for VAT in the transaction giving rise to the unpaid consideration.

Applying this reasoning to the specific case, the Court distinguishes between two separate transactions: the relationship between the subcontractor and the contractor, on the one hand, and the relationship between the contractor and the developer, on the other.

With regard to the first, the assignment of the receivable constituted in itself valid consideration for VAT purposes, since at the time of the assignment said receivable had an economic value equivalent to its nominal amount, regardless of whether it subsequently proved uncollectible, so that the contractor fully settled its debt to the subcontractor without any non-payment in that relationship that could justify a reduction in the taxable amount. With regard to the second, the taxable person liable for VAT was the contractor, who held the right to adjust the taxable amount due to the developer's non-payment.

Consequently, the General Court rules that Article 90(1) of the VAT Directive precludes a subcontractor who has acquired, by assignment, the claim that a contractor holds against a developer under a works contract from adjusting the taxable amount for value-added tax in the event of non-payment of that claim by the developer.

Opinion of Advocate General Maja Brkan of April 22, 2026. Case T-268/25 (Sampension Livsforsikring A/S)

Preliminary ruling — Taxation — Value-added tax (VAT) — Article 11 of Directive 2006/112/EC — Taxable persons — "VAT group" — Persons closely linked to one another in financial, economic, and organizational terms — Measures to prevent tax fraud or evasion — National legislation requiring a 100% shareholding for certain taxable persons.

The dispute in this case originated in Denmark and arose when the Danish Tax Administration denied Sampension Livsforsikring's application to form a VAT group with its management company, in which it holds a 94% stake, on the grounds that the requirement under Danish law to hold 100% of the capital was not met. The company's rationale is clear: in the current situation, the management company charges VAT to Sampension Livsforsikring for the services provided, but the latter cannot fully deduct it because it carries out exempt financial activities, thereby bearing that burden. In this regard, if both were to form a group, the internal transactions would fall outside the scope of VAT and that burden would disappear.

To resolve the question referred for a preliminary ruling, the Advocate General distinguishes between the two paragraphs of Article 11 of the VAT Directive: the first paragraph establishes the requirements for the existence of a group, while the second paragraph empowers Member States to adopt additional, complementary measures aimed exclusively at combating tax fraud or evasion.

As for the first paragraph, the Advocate General concludes that the concept of a close financial link must be interpreted uniformly and non-restrictively, and that the case law of the Court of Justice has already held that a majority shareholding is sufficient to establish such a link, so that Article 11(1) cannot serve as a basis for imposing a 100% requirement.

The issue under consideration then turns to the second paragraph of Article 11. The Advocate General rules out the possibility that the Danish legislation can be justified on the grounds of an anti-fraud measure, since tax fraud involves an illegal activity, and the Danish rule does not combat any illegal conduct, but rather limits the scope of the group scheme with the aim of reducing the tax advantages derived from it.

As for tax evasion, the Advocate General concludes that it is a purely objective phenomenon, that is, it is assessed independently of the taxpayer's intent, and consists of obtaining a tax advantage contrary to the purpose of the tax rule. It thus differs from tax abuse, which additionally requires that the taxpayer have deliberately sought such an advantage.

Regarding the purpose of the group scheme for VAT purposes, the Advocate General notes that, in accordance with settled case law, the purpose of that scheme is to prevent the status of taxable person from being mechanically linked to legal independence, whether to simplify administrative management or to prevent abuse; but it does not seek to create tax advantages that would not exist outside the group; therefore, the advantages derived from the inclusion of taxable persons with exempt activities or without economic activity constitute a form of tax evasion that Member States are authorized to combat. The Advocate General expressly rejects the argument of so-called organizational tax neutrality, according to which the group regime is intended to ensure that the legal form chosen by companies (operating through one or more entities) does not influence the tax burden borne. In her view, accepting this argument would amount to confusing the practical effects of the regime with its true purpose, which would render meaningless the power granted to Member States by the second paragraph of Article 11 to combat tax evasion.

Finally, regarding the principle of proportionality, the Advocate General notes that a measure may be appropriate, even if it only partially achieves the objective of preventing tax evasion, provided that it is applied consistently and not in an arbitrary or selective manner, but that it is for the referring court to verify whether the 100% requirement goes beyond what is necessary, particularly with regard to taxable persons who carry out only partially exempt activities, for whom less restrictive measures might exist.

Consequently, the Advocate General proposes that the General Court rule that Article 11 of the Directive does not preclude national legislation that makes the possibility of forming a group for VAT purposes (where it includes persons engaged in exempt activities or with no economic activity) subject to a 100% shareholding requirement, provided that such legislation aims to prevent tax advantages unrelated to administrative simplification and complies with the principles of proportionality and tax neutrality.

III. DOMESTIC COURT DECISIONS

Judgment 105/2026 of February 25, 2026, of the High Court of Justice of Madrid. Appeal 996/2022.

This judgment resolves the appeal filed by Autos Ararat Transportation, S.L. against a decision of the Regional Economic-Administrative Court (TEAR) of Madrid. The subject of the dispute is the dismissal of the economic-administrative claim filed against the decision denying the correction of the monthly self-assessed VAT return for the period of April 2021, under the Special Regime for Groups of Entities (REGE).

The underlying issue is whether the offsetting of VAT amounts from prior periods—which the company failed to correctly enter in the corresponding box due to a clerical error—constitutes a tax election within the meaning of Article 119.3 of the General Tax Law (LGT), and is therefore irrevocable once the deadline for filing the self-assessment has passed, or whether, on the contrary, it constitutes an independent right of the taxpayer that is subject to correction.

The Administration and the TEAR argued that the inclusion of VAT amounts to be offset in a self-assessment constitutes the exercise of a tax option that cannot be modified outside the statutory filing deadline for the return, in accordance with Article 119.3 of the General Tax Law (LGT) and the doctrine of the TEAC, without prejudice to the taxpayer's ability to exercise that right in the subsequent self-assessment.

The TEAR argued that the inclusion of input VAT in the self-assessment for a specific period constitutes an option in the sense that the taxpayer may choose to deduct or offset it in that period or in subsequent periods, but that such option cannot be modified once the filing deadline has expired.

The High Court of Justice, based on the doctrine established by the Supreme Court in repeated rulings, rigorously distinguishes the concept of a tax option under Article 119.3 of the General Tax Law, which requires two elements: an objective one (the existence of a choice between different and mutually exclusive tax regimes) and a deliberate one (the taxpayer's free act of will reflected in their return), and concludes that the offsetting of VAT amounts does not meet these requirements because it does not involve choosing between different and mutually exclusive legal regimes.

Applying to VAT the doctrine established by the Supreme Court in its rulings of November 30, 2021, and February 23, 2023, the Chamber concludes that the right to deduct and offset input VAT is an autonomous right of the taxpayer, not a tax option; thus, when a taxpayer decides to offset VAT, they are not exercising an option, but a right.

Consequently, the Court declares that the deduction of input VAT is a right of the taxpayer and not a tax option under the terms of Article 119.3 of the General Tax Law (LGT), such that taxpayers may request the correction and the corresponding refund of overpaid taxes with respect to a self-assessed VAT return by following the procedure provided for in the LGT.

Thus, the Court upholds the administrative appeal filed by Autos Ararat Transportation, S.L., and recognizes the plaintiff's right to the requested correction of its self-assessed VAT return.

Supreme Court Judgment 399/2026 of March 27, 2026. Appeal 1307/2025.

This judgment resolves a cassation appeal filed by the Provincial Council of Gipuzkoa against the judgment of the High Court of Justice of the Basque Country, which had upheld the claim for financial liability brought by Brunotir Transportes, LDA, regarding the toll for the use of certain sections of two high-capacity highways.

The High Court of Justice of the Basque Country upheld Brunotir Transportes' appeal and ordered the Provincial Council of Gipuzkoa to pay the claimant the amounts proven, including 21% VAT, based on the principle of restitutio in integrum, although it left open the possibility of a subsequent tax adjustment.

The underlying issue was whether the amount of VAT should be considered actual compensable damage when the claimant is a taxable person for that tax and is entitled to a tax refund for the input tax paid.

The appellant Provincial Council argued that VAT is an indirect tax levied on final consumption and that it must be neutral for the business, so that, since Brunotir Transportes is a company engaged in the transport of goods subject to VAT, it was entitled to deduct the input VAT incurred through the payment of the fee, and therefore no actual damage had been incurred in that regard.

The respondent argued that the payment of VAT was an ancillary obligation of the fee declared null and void, that the principle of restitutio in integrum required compensation for the entirety of the damage suffered, including the VAT paid, and that, if this resulted in subsequent tax consequences, these could be subject to adjustment by the Administration.

The Supreme Court highlights one of its previous rulings, according to which the aggrieved company, as a business subject to VAT, was entitled to deduct the input VAT.

The Chamber emphasizes that the neutral nature of the tax means that, if the appellant is a business subject to VAT and is eligible for a tax refund of the input tax, the amount of VAT should not be considered actual compensable damage, since including it in the compensation would result in a duplication that must be corrected.

Consequently, the Supreme Court establishes as settled case law that, in the context of quantifying financial liability, the amount of VAT should not be considered actual compensable damage when the claimant is a taxable person for that tax and is entitled to a tax refund for the input tax paid.

IV. ADMINISTRATIVE DECISIONS

TEAC Decision No. 01362/2024, dated February 27, 2026, regarding the scope of remedies for the adjustment of charged VAT amounts and the limitations on their application.

In this decision, the Central Economic-Administrative Court rules on the temporal scope of the right to correct charged Value Added Tax (VAT) amounts when such correction results in a reduction of those amounts and is carried out through the mechanism of adjustment in subsequent self-assessments provided for in Article 89.Section 5.b) of Law 37/1992 on VAT.

The dispute stems from a request for correction filed by the parent company of a VAT group. This entity sought to recover excess VAT charged as a result of the issuance, by one of the group's entities in February 2019, of corrective invoices for rebates corresponding to transactions carried out in 2018. However, these corrections were not included in the self-assessments for the period in which they should have taken effect. Subsequently, in March 2023, the parent company requested a correction to the self-assessment corresponding to the period in which the corrective invoices were issued, in order to recover the VAT amounts initially overcharged.

The issue is whether it is lawful to allow the adjustment of charged VAT amounts through the correction of self-assessments after the one-year period provided for in Article 89.5.b) of the VAT Law has elapsed, or whether, on the contrary, that period constitutes a preclusive deadline that prevents any subsequent adjustment by this means.

In this regard, the TEAC notes that Article 89 of the VAT Act establishes two distinct procedures for recovering unduly charged amounts when a correction results in a reduction: first, the correction of the original self-assessment in which the charged amounts were included, pursuant to Article 120.3 of the General Tax Law, subject to the general four-year statute of limitations; and, on the other hand, the adjustment of the tax situation in the self-assessment corresponding to the period in which the correction must be made or in subsequent periods, with a time limit of one year from the date on which said correction should have been made. Both avenues apply to different scenarios, are not interchangeable, and have their own requirements and time limits.

In particular, the Court emphasizes that the procedure under Article 89.5.b) of the VAT Law is of an exceptional nature and is subject to a specific time limit for exercise, which must be interpreted as preclusive. Consequently, once the one-year period has elapsed without the correction having been incorporated into the corresponding self-assessments, it is not possible to regularize the tax situation either by including the corrected amounts in subsequent self-assessments or by requesting a correction of self-assessments falling within that annual period.

Likewise, the TEAC rejects the possibility of resorting, as an alternative or subsequent remedy after the expiration of that period, to the procedure under Article 120.3 of the General Tax Law with respect to self-assessments subsequent to the period in which the amounts were originally passed on, specifying that this procedure is applicable only to the self-assessment in which the initial pass-through sought to be corrected was included, and not to those corresponding to periods in which the corrective invoices were issued.

The Court thus reaffirms the existence of a dual time frame: a first four-year period to issue corrective invoices and rectify the passed-on amounts, and a second, additional but limited, one-year period to regularize the tax situation by including them in subsequent self-assessments, when this route is chosen. Once this latter period has elapsed, the possibility of regularization is definitively extinguished.

In application of this criterion, the TEAC dismisses the claim filed, considering that the entity had materially followed the procedure provided for in Article 89.5.b) of the VAT Law and had not exercised that option within the legally established time limit, thereby confirming the contested administrative decision. With this ruling, the Court consolidates the criterion that the one-year period provided for correction in subsequent self-assessments is preclusive and non-extendable, with no recourse to alternative mechanisms once it has expired.

V. BINDING RULINGS

V0191-26: Psychopedagogical rehabilitation services provided by a self-employed individual. Analysis of the healthcare and social assistance exemption and the applicable tax rate.

The Directorate General of Taxes, in binding consultation V0191-26, analyzes the treatment under Value-Added Tax of services provided by a self-employed re-educator who conducts individual psycho-pedagogical re-education sessions for minors with learning and developmental difficulties. As explained, these are not private lessons or academic tutoring, but rather therapeutic interventions aimed at improving cognitive, emotional, and behavioral functions, with a clinical basis and documented through individualized assessment and follow-up reports.

The issue at hand is to determine whether these services qualify for the exemption provided for in Article 20.1.3 of the VAT Law, concerning care provided to individuals by medical or healthcare professionals. For these purposes, the DGT notes that the application of this exemption requires the fulfillment of two conditions: an objective requirement, referring to the healthcare nature of the service, which must consist of medical, surgical, or healthcare services related to the diagnosis, prevention, or treatment of diseases; and a subjective requirement, regarding the status of those providing the services, who must be a medical or healthcare professional as defined by law.

Regarding the subjective requirement, the provider must hold a recognized healthcare qualification or license. In this regard, the consultation refers to Law 44/2003 on the regulation of healthcare professions, to note that this requirement is reserved for licensed and regulated healthcare professions, as well as for professionals expressly mentioned in the VAT Law itself, including, among others, medicine, pharmacy, dentistry, nursing, physical therapy, occupational therapy, podiatry, optometry and optics, speech therapy, and human nutrition and dietetics—all of whom must hold diplomas from official institutions or those recognized by the Administration.

Applying these criteria to the case at hand, the DGT considers that, based on the information provided, it appears that the psycho-pedagogical rehabilitation services will not be provided by a medical or healthcare professional. Consequently, although the intervention may have a therapeutic purpose, thereby meeting the objective requirement, it is not covered by the healthcare exemption under Article 20.1.3 of the VAT Law unless the subjective requirement regarding the provider's qualification as a medical or healthcare professional is also met. Therefore, such services are subject to tax and not exempt.

Furthermore, the consultation also analyzes the possible application of the exemption provided for in Article 20.1.8 of the VAT Law, relating to certain social assistance services, including child and youth protection, as well as special education and assistance to persons with disabilities. However, this exemption is conditional upon the services being provided by public-law entities or by private entities or establishments of a social nature, which must meet the requirements set forth in Article 20.3 of the VAT Law, including being non-profit and allocating any profits obtained to the development of exempt activities of the same nature.

In the case under review, since the service provider is a self-employed re-educator and not a public-law entity or a private social welfare institution, the DGT concludes that the services cannot benefit from the social welfare exemption either, notwithstanding the fact that, due to their substantive content, they might be considered social welfare services under the terms indicated.

However, this latter classification is indeed relevant for purposes of the applicable tax rate. Article 91.1.2.7 of the VAT Law provides for the application of the reduced rate of 10 percent to the provision of services referred to in Article 20.1.8 when they are not exempt due to failure to meet the subjective requirements for exemption. Consequently, the services provided by the inquirer will be subject to tax and not exempt, but will be taxed at the reduced rate of 10 percent when they are considered social assistance services. Otherwise, they must be taxed at the standard rate of 21 percent.

It should be noted that the Secretary of State for Social Services and Equality stated in its report of March 25, 2014, that "social assistance is understood to be the set of actions and activities carried out by the public sector or by private entities or individuals outside the framework of Social Security, allocating financial, human, and organizational resources to address situations of need and other deficiencies of certain groups (e.g., the elderly, children and youth, people with disabilities, women who are victims of gender-based violence, victims of discrimination, ethnic minorities, immigrants, refugees, victims of human trafficking, etc.), of people in situations of vulnerability or at risk of social exclusion, or of other people with similar social needs requiring assistance."

V0198-26: Administrative expenses in the sale of tickets for shows. Incidental service and application of the reduced rate of 10 percent.

In this consultation, the Directorate General of Taxes analyzes the treatment under Value-Added Tax of the handling fees charged by an entity dedicated to organizing concerts and musical events. The consultant sells event tickets on its own account, including in the final price to the customer handling fees associated with the purchase of the ticket, which it had been invoicing at the standard rate of 21 percent.

The question raised is whether these management fees should be considered a service independent of the ticket sale or, conversely, an ancillary service to the main transaction of admission to the event, in which case they would share the same tax rate and treatment for VAT purposes.

The DGT bases its analysis on the special rule contained in Article 79.2 of the VAT Law, according to which, when goods of different types are supplied or services of different types are provided in a single transaction for a single price, the taxable base for each shall be determined in proportion to its market value. However, this rule does not apply when such goods or services constitute ancillary services to another main transaction subject to tax.

In this regard, the consultation recalls the doctrine of the Court of Justice of the European Union on complex transactions, in particular the case law regarding the need not to artificially break down a transaction that, from an economic standpoint, constitutes a single supply. According to this doctrine, a supply must be considered ancillary to a principal one when it does not constitute an end in itself for the customer, but rather the means to enjoy the principal service under better conditions.

Applying this criterion to the case at hand, the DGT concludes that the handling fees charged by the organizing entity itself do not represent an independent interest for customers with respect to access to the concert or musical event. The customer does not separately contract a management service with its own substance, but rather pays that amount as part of the process of purchasing the ticket that allows them to attend the show. Consequently, the management fees are ancillary to the main transaction consisting of access to the event.

This classification has a direct impact on the applicable tax rate. Since Article 91.1.2.6 of the VAT Act provides for the application of the reduced rate of 10 percent to admission to concerts and other live cultural performances, both services will be taxed at the reduced rate of 10 percent, as they constitute a single service for tax purposes.

The consultation also addresses the situation in which the entity initially charged VAT on administrative expenses at the standard rate of 21%. In such a case, the correction of the amounts charged must be made in accordance with Article 89 of the VAT Law, provided that four years have not elapsed since the tax became due. When the correction results in a reduction of the amounts initially charged, the taxpayer may choose between initiating the self-assessment correction procedure or rectifying the situation in the tax return for the period in which the correction must be made or in subsequent returns, within a one-year period, by refunding the recipient of the transaction the amount of the excess charges.

In short, the ruling confirms that the administrative fees charged by the organizing entity itself in the sale of concert tickets do not constitute a separate service subject to the standard rate, but rather an ancillary element of admission to the performance. Therefore, they must be treated in the same manner as the main transaction and taxed at the reduced rate of 10 percent, without prejudice to the obligation to correct, where applicable, any tax unduly charged at 21 percent, by refunding the recipient of the transaction the amount of the unduly charged tax.

V0184-26: Enclosing a terrace in a residence using a removable glass and aluminum structure. Application of the reduced rate of 10 percent to renovation and repair work.

The Directorate General of Taxes, in binding ruling V0184-26, analyzes the applicable Value-Added Tax rate for construction work consisting of enclosing a residential terrace using a removable glass and aluminum structure, a project that will increase the usable floor area of the residence. The question raised centers on determining whether such work qualifies for the reduced 10 percent rate or, conversely, must be taxed at the standard 21 percent rate.

The DGT first recalls the regime established for construction or renovation work on buildings intended primarily for residential use, which may be taxed at 10 percent when the requirements of Article 91.1.3.1 of the VAT Law are met. For this, it is necessary that the work be a genuine construction project, that the contract be entered into directly between the developer and the contractor, and that the project be for the construction or renovation of a building intended primarily for residential use.

In this regard, the consultation is relevant because it incorporates the change in criteria resulting from Supreme Court Ruling No. 82/2025, dated January 28, 2025, regarding the concept of a dwelling suitable for use. The application of the reduced rate is not necessarily contingent upon the existence of a certificate of occupancy, an occupancy permit, or a similar administrative authorization. The suitability of a building for use as a dwelling is an objective circumstance that may be proven by any means of evidence admissible in law, based on the objective characteristics of the property and its possible legal use.

However, in the case under review, the issue is not resolved in this manner, but rather by the nature of the work performed. The DGT notes that for a project to qualify as renovation for VAT purposes, the qualitative and quantitative requirements set forth in Article 20.1.22.B) of the VAT Law must be met. In particular, more than 50 percent of the total cost of the project must correspond to works of consolidation or treatment of structural elements, facades, or roofs, or to works analogous or related to renovation, and the total cost of the works must exceed 25 percent of the purchase price or market value of the building, excluding the proportional share corresponding to the land. As this is a technical matter, it is the interested party who must prove, through appropriate means of evidence, the true nature of the work performed.

When, as appears to be the case in the matter under review in the absence of other evidence, the work cannot be classified as construction or rehabilitation, the DGT analyzes the possible application of the reduced rate provided for renovation and repair work on residential properties. In this regard, Article 91.1.2.10 of the VAT Law allows the 10 percent rate to be applied to renovation and repair work carried out on buildings or parts thereof intended for residential use when three requirements are met: that the recipient is a natural person who is not acting as a business owner or professional and uses the dwelling for personal use; that the construction or renovation of the dwelling was completed at least two years prior to the start of the work; and that the contractor does not supply materials or, if they do, that their cost does not exceed 40 percent of the taxable base of the transaction.

The DGT considers that enclosing a terrace, which increases the usable floor area of the dwelling, may fall under the concept of renovation and repair work, provided the above conditions are met. When calculating the cost of materials, all tangible assets that are physically incorporated into the building during the execution of the work must be taken into account, including those corresponding to work subcontracted to third parties. If the cost of such materials exceeds 40 percent of the taxable base of the transaction, the work will be fully taxed at the standard rate of 21 percent, and it will not be possible to artificially break down the transaction to apply the reduced rate to the portion corresponding to labor.

Finally, the ruling notes that the other two conditions required to apply the reduced rate may be substantiated by a written statement signed by the recipient and addressed to the

taxpayer, in accordance with Article 26 of the VAT Regulation.

In short, the DGT concludes that the enclosure of a terrace in a dwelling may be taxed at the reduced rate of 10 percent as renovation and repair work, even if it involves an expansion of the usable area, provided that the recipient is a natural person using the dwelling for private use, at least two years have elapsed since the construction or renovation of the dwelling, and the cost of the materials supplied does not exceed 40 percent of the taxable base. Otherwise, the work will be subject to the standard rate of 21 percent.

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