

C_2019206EN.01002701.xml
17.6.2019

EN

Official Journal of the European Union

C 206/27

Request for a preliminary ruling from Tribunalul Bucureşti (Romania) lodged on 20 March 2019 — CHEP Equipment Pooling NV v Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti — Serviciul Soluţionare Contestaţii, Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti — Administraţia Fiscală pentru Contribuabili Nerezidenţi

(Case C-242/19)

(2019/C 206/31)

Language of the case: Romanian

Referring court

Tribunalul Bucureşti

Parties to the main proceedings

Applicant: CHEP Equipment Pooling NV

Defendants: Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti — Serviciul Soluţionare Contestaţii, Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti — Administraţia Fiscală pentru Contribuabili Nerezidenţi

Questions referred

1.

Does the transport of pallets from one Member State to another Member State, for the purposes of their subsequent rental in the latter Member State to a taxable person established and registered for VAT purposes in Romania, constitute a non-transfer in accordance with Article 17(2) of Directive [2006/112/EC]? (1)

2.

Irrespective of the answer to the first question, is the taxable person under Article 9(1) of Directive 2006/112/EC, who is not established in the Member State of refund but in the territory of another Member State, considered a taxable person under Article 2(1) of Directive 2008/9/EC, (2) even where that person is registered for VAT purposes or would be required to be registered for VAT purposes in the Member State of refund?

3.

In the light of the provisions of Directive 2008/9/EC, does the condition of not being registered for VAT purposes in the Member State of refund constitute a further condition to those laid down in Article 3 of Directive 2008/9/EC in order that a taxable person established in another Member State and not established in the Member State of refund may be entitled to a refund in a case such as the present?

4.

Must Article 3 of Directive 2008/9/EC be interpreted as precluding a practice of a national administration of refusing to refund VAT on grounds of failure to satisfy a condition laid down exclusively in national law?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

(2) Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ 2008 L 44, p. 23).