

C_2020027EN.01001101.xml
27.1.2020

EN

Official Journal of the European Union

C 27/11

Request for a preliminary ruling from the Bundesfinanzgericht (Außenstelle Graz) (Austria) lodged on 5 August 2019 — SK Telecom Co. Ltd.

(Case C-593/19)

(2020/C 27/14)

Language of the case: German

Referring court

Bundesfinanzgericht (Außenstelle Graz)

Parties to the main proceedings

Appellant: SK Telecom Co. Ltd.

Respondent: Finanzamt Graz-Stadt

Questions referred

1.

Is Article 59a(b) of Directive 2006/112/EC, (1) as amended by Article 2 of Directive 2008/8/EC, (2) to be interpreted as meaning that the use of roaming services in a Member State in the form of access to the national mobile telephone network for the purpose of establishing incoming and outgoing connections by a ‘non-taxable end customer’ temporarily resident in that Member State constitutes ‘use and enjoyment’ in that Member State which justifies the transfer of the place of supply from the third country to that Member State, even though neither the mobile telephone operator providing the services nor the end customer are established in Community territory and the end customer does not have his permanent address and does not usually reside in the Community?

2.

Is Article 59a(b) of Directive 2006/112, as amended by Article 2 of Directive 2008/8, to be interpreted as meaning that the place of supply of telecommunications services as described in Question 1, which are outside the Community according to Article 59 of Directive 2006/112, as amended by Article 2 of Directive 2008/8, may be transferred to the territory of a Member State even though neither the mobile telephone operator providing the services nor the end customer are established in Community territory and the end customer does not have his permanent address and does not usually reside in the Community, simply because the telecommunications

services in the third country are not subject to a tax comparable to VAT under EU law?

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

(2) Council Directive of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services (OJ 2008 L 44, p. 11).