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Request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Hungary)
lodged on 27 September 2019 — Boehringer Ingelheim RCV GmbH & Co. KG Magyarországi
Fióktelepe v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-717/19)

(2020/C 95/10)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Boehringer Ingelheim RCV GmbH & Co. KG Magyarországi Fióktelepe

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1.

Should Article 90(1) of Council Directive 2006/112/EC (1) of 28 November 2006 on the common system of value added tax be interpreted as precluding a provision of national law, such as that at issue in the main proceedings, under which a pharmaceutical company which, pursuant to an agreement it is not obliged to enter into, makes payments to the state health insurance agency based on the revenue obtained from pharmaceutical products and which, therefore, does not retain the full amount of the consideration for those products, is not entitled subsequently to reduce the taxable amount, solely because the payment method is not set out in advance in its commercial policy and the payments are not principally for promotional purposes?

2.

If the answer to the first question is in the affirmative, should Article 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be interpreted as precluding a provision of national law, such as that at issue in the main proceedings, under which, in order to be able subsequently to reduce the taxable amount, an invoice made out to the person entitled to the refund providing proof of the transaction giving entitlement to that refund is required, even though the transaction that enables the subsequent reduction in the taxable amount is duly documented and can subsequently be verified, is based in part on truthful, publicly available

information, and enables the tax to be collected correctly?

(1) OJ 2006 L 347, p. 1.