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Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 21 December 2020 — W.G. v Dyrektor Izby Skarbowej in L.

(Case C-697/20)

(2021/C 182/35)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: W.G.

Respondent: Dyrektor Izby Skarbowej in L.

Questions referred

1.

Must the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1, as amended), (1) in particular Articles 9, 295 and 296, be interpreted as precluding a national practice laid down in Article 15(4) and (5) of the Ustawa z dnia 11 marca 2004 r. o podatku od towarów i usług (Law of 11 March 2004 on the tax on goods and services) (Journal of Laws [Dz. U.] of 2011, No 177, item 1054, as amended), which excludes the option of treating as separate VAT taxable persons spouses who engage in agricultural activity within an agricultural holding using their marital joint property?

2.

Is it relevant to the answer to the first question that, according to national practice, if one spouse opts to tax his or her business on the basis of general VAT rules, the other spouse ceases to be a flat-rate farmer?

3.

Is it relevant to the answer to the first question that it is possible to clearly distinguish between the assets used independently and autonomously by each spouse for the purposes of the business activity concerned?

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