

C\_2022380EN.01000302.xml

3.10.2022

EN

Official Journal of the European Union

C 380/3

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 5 July 2022 — P Sp. z o.o. v Dyrektor Izby Administracji Skarbowej w Lublinie

(Case C-442/22)

(2022/C 380/05)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: P Sp. z o.o.

Respondent: Dyrektor Izby Administracji Skarbowej w Lublinie

Questions referred

1.

Must Article 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (1) be interpreted as meaning that in a situation where an employee of a VAT taxable person has issued a fraudulent invoice showing VAT, on which he or she has included the employer's details as the taxable person, without that employer's knowledge and consent, the person who enters the VAT on the invoice and who is thus liable to pay the VAT is to be considered:

—

the VAT taxable person whose details were unlawfully used in the invoice; or

—

the employee who unlawfully entered VAT on that invoice using the details of the VAT taxable person?

2.

In connection with the question of who is to be considered, within the meaning of Article 203 of the aforementioned Council Directive 2006/112/EC, the person who enters VAT on the invoice and is

thus liable to pay VAT in the circumstances described in Question 1, is it relevant whether the VAT taxable person that employs the employee who unlawfully entered that taxable person's details on a VAT invoice may be considered to have failed to exercise due diligence in supervising that employee?

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