

**Operative part of the judgment**

Article 7(3)(b) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as meaning that a national of a Member State retains the status of self-employed person for the purposes of Article 7(1)(a) of that directive where, after having lawfully resided in and worked as a self-employed person in another Member State for approximately four years, that national has ceased that activity, because of a duly recorded absence of work owing to reasons beyond his control, and has registered as a jobseeker with the relevant employment office of the latter Member State.

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<sup>(1)</sup> OJ C 383, 17.10.2016.

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**Judgment of the Court (Fifth Chamber) of 20 December 2017 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Finanzamt Bingen-Alzey v Boehringer Ingelheim Pharma GmbH & Co. KG**

(Case C-462/16) <sup>(1)</sup>

**(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 90(1) — Reduction of the price under conditions determined by the Member States — Reduction of the taxable amount — Principles laid down in the judgment of 24 October 1996, Elida Gibbs (C-317/94, EU:C:1996:400) — Discounts granted to private medical insurance funds)**

(2018/C 072/27)

Language of the case: German

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

Applicant: Finanzamt Bingen-Alzey

Defendant: Boehringer Ingelheim Pharma GmbH & Co. KG

**Operative part of the judgment**

In the light of the principles defined by the Court in the judgment of 24 October 1996, Elida Gibbs (C-317/94, EU:C:1996:400, paragraphs 28 and 31), regarding the determination of the taxable amount for value added tax and having regard to the principle of equal treatment under EU law, Article 90(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the discount granted, under national law, by a pharmaceutical company to a private health insurance company results, for the purposes of that article, in a reduction of the taxable amount in favour of that pharmaceutical company, where it supplies medicinal products via wholesalers to pharmacies which make supplies to persons covered by private health insurance that reimburses the purchase price of the medicinal products to persons it insures.

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<sup>(1)</sup> OJ C 402, 31.10.2016.