



## Reports of Cases

**Case C-462/16**

**Finanzamt Bingen-Alzey**

**v**

**Boehringer Ingelheim Pharma GmbH & Co. KG**

(Request for a preliminary ruling from the Bundesfinanzhof)

(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)

Summary — Judgment of the Court (Fifth Chamber), 20 December 2017

*Harmonisation of fiscal legislation — Common system of value added tax — Taxable amount — Article 90(1) of Directive 2006/112 — Reduction in the case of cancellation, refusal or where the price is reduced — Supplies of pharmaceutical products via wholesalers — Discounted price granted by the pharmaceutical company to private health insurance fund — No contractual link between the pharmaceutical company and the insured — Application of the principles laid down by the Court in *Elida Gibbs* and the principle of equal treatment — Reduction of the taxable amount in favour of the pharmaceutical company*

(Council Directive 2006/112, Art. 90(1))

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.

(see para. 46, operative part)