

Operative part of the judgment

European Union law precludes national legislation which provides for the application of a measure derogating from Article 193 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2013/43/EU of 22 July 2013, before the EU act authorising that derogation has been notified to the Member State which requested it, despite the fact that that EU act does not mention the date of its entry into force or the date from which it applies, even if that Member State has expressed the wish for that derogation to apply with retroactive effect.

⁽¹⁾ OJ C 318, 25.9.2017.

Judgment of the Court (Ninth Chamber) of 14 February 2019 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Vetsch Int. Transporte GmbH

(Case C-531/17) ⁽¹⁾

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 143(1)(d) — Exemptions from VAT on importation — Imports followed by an intra-Community transfer — Subsequent intra-Community supply — Tax evasion — Refusal of the exemption — Conditions)

(2019/C 131/09)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Vetsch Int. Transporte GmbH

Other party: Zollamt Feldkirch Wolfurt

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Article 143(d) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Article 143(1)(d) of that directive, as amended by Council Directive 2009/69/EC of 25 June 2009, must be interpreted as meaning that the exemption from import value added tax laid down in those provisions may not be refused in respect of an importer designated or recognised as liable for payment of that tax, within the meaning of Article 201 of Directive 2006/112, in a situation, such as that in the main proceedings, in which, first, the recipient of the intra-Community transfer of goods effected after that import commits tax evasion in connection with a transaction which is subsequent to that transfer and is not linked to that transfer and, secondly, there is no evidence to support the conclusion that the importer knew or ought to have known that that subsequent transaction entailed tax evasion on the part of the recipient.

⁽¹⁾ OJ C 412, 4.12.2017.