

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 20 April 2021 — Luxury Trust Automobil GmbH

(Case C-247/21)

(2021/C 263/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Luxury Trust Automobil GmbH

Defendant authority: Finanzamt Österreich, Baden Mödling office

Questions referred

1. Is Article 42(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, ⁽¹⁾ in conjunction with Article 197(1)(c) of that directive (as amended by Directive 2010/45/EU ⁽²⁾), to be interpreted as meaning that the person to whom the supply is made is to be designated as liable for payment of VAT if the invoice, which does not show the amount of value added tax, states: 'Exempt intra-Community triangular transaction'?
2. If the first question is answered in the negative:
 - a) Can such a mention on the invoice be amended so as to apply retroactively (by stating: 'Intra-Community triangular transaction in accordance with Article 25 of the Austrian Law on turnover tax ("the UStG"). Liability for payment of VAT is transferred to the customer'?)
 - b) Is it necessary for the invoice recipient to receive the amended invoice in order for an amendment to be effective?
 - c) Does the effect of the amendment apply retroactively to the original date of invoicing?
3. Is Article 219a of Directive 2006/112/EC (as amended by Directive 2010/45/EU and the Corrigendum ⁽³⁾) to be interpreted as meaning that the rules on invoicing to be applied are those of the Member State whose provisions would be applicable if a 'customer' has not (yet) been designated on the invoice as the person liable for payment of VAT; or are the rules to be applied those of the Member State whose provisions would be applicable if the designation of the 'customer' as the person liable for payment of VAT is accepted as valid?

⁽¹⁾ OJ 2006 L 347, p. 1.

⁽²⁾ Council Directive of 13 July 2010 amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing (OJ 2010 L 189, p. 1).

⁽³⁾ Corrigendum to Directive 2010/45 amending Directive 2006/112 (OJ 2010 L 299, p. 46).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 21 April 2021 — F. Hoffmann-La Roche Ltd and Others v Autorità Garante della Concorrenza e del Mercato

(Case C-261/21)

(2021/C 263/13)

Language of the case: Italian

Referring court

Consiglio di Stato