

Defendant: Inspecteur van de Belastingdienst Maastricht

Question referred

Must Article 135(1)(g) of the VAT Directive ⁽¹⁾ be interpreted as meaning that unit-holders in a pension fund such as the one at issue in the main proceedings can be regarded as bearing investment risk, and does this mean that the pension fund constitutes a ‘special investment fund’ within the meaning of that provision? Is it relevant in that regard:

- whether unit-holders bear an individual investment risk or is it sufficient that unit-holders as a collective — and no one else — bear the consequences of the investment results?
- what the magnitude of the collective or individual risk is?
- to what extent the amount of the pension benefit depends also on other factors, such as the number of years of pension accrual, salary level and the actuarial interest rate?

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Request for a preliminary ruling from the Rechtbank Gelderland (Netherlands) lodged on 12 October 2022 — Stichting BPL Pensioen v Inspecteur van de Belastingdienst Utrecht

(Case C-643/22)

(2023/C 35/32)

Language of the case: Dutch

Referring court

Rechtbank Gelderland

Parties to the main proceedings

Applicant: Stichting BPL Pensioen

Defendant: Inspecteur van de Belastingdienst Utrecht

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