

# ECJ Preliminary Ruling Request (VAT): *Makovit* (Case C-182/23) – Naczelny Sąd Administracyjny Submits Referral on VAT Treatment Applicable to Transfer of Expropriated Plot Previously Used for Taxable Agricultural Activities

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On 17 July 2023, a preliminary ruling request, lodged on 22 March 2023, was published in the Official Journal of the European Union. By this, the Naczelny Sąd Administracyjny (Supreme Administrative Court, Poland) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case of *Dyrektor Krajowej Informacji Skarbowej v. J.S.* (C-182/23) on the interpretation of articles 9(1) and 14(2) of the [VAT Directive \(2006/112\)](#) to determine whether the transfer of an agricultural plot in exchange for compensation under an expropriation procedure to the State Treasury, with the aim to change its use to a public road construction project, should be regarded as a supply of goods subject to VAT, due to the fact that the taxable person previously used the plot in its agricultural activities which were subject to VAT.

In this context, the Naczelny Sąd Administracyjny requested the ECJ to answer the following questions:

"Do the provisions of Article 9(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [[VAT Directive \(2006/112\)](#)], in conjunction with Article 14(2)(a) thereof, allow a farmer who is liable to pay VAT under general rules and who transfers the ownership of a plot of land to the State Treasury under an expropriation procedure in exchange for compensation related to the change of its intended use for non-agricultural purposes to be regarded as a taxpayer obliged to pay VAT on that compensation due solely to the fact that the plot was earlier used for agricultural activities subject to VAT?"