

# ECJ Preliminary Ruling Request (VAT): *Gemeente Dinkelland* (Case C-674/22) – *Rechtbank Gelderland* Submits Referral on Default Interest on Tax Refund Due to Adjustments on Tax Return Resulting from Taxpayer Error

6 February 2023

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On 6 February 2023, a preliminary ruling request, lodged on 31 October 2022, was published in the Official Journal of the European Union. By this, the *Rechtbank Gelderland* (Gelderland District Court, Netherlands) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case *Gemeente Dinkelland v. Ontvanger van de Belastingdienst/Grote ondernemingen, kantoor Zwolle* (case C-674/22) on whether default interest must be paid together with a tax refund when the refund was granted due to a retrospective adjustment of the taxable person's turnover including the deduction of input tax (the VAT paid on the purchase of goods and services relating to economic activities), and the adjustment aimed at correcting errors that were attributable to the taxable person. In case default interest is due, the referring court also wishes to ascertain the period for which it must be paid.

The *Rechtbank Gelderland* requested the ECJ to answer the following questions:

"(1) Must the legal rule that default interest must be reimbursed because there is a right to a refund of taxes levied in breach of EU law be interpreted as meaning that, where a taxable person has been granted a refund of turnover tax, default interest must be reimbursed to that taxable person in a situation where:

a) the refund is the result of administrative errors on the part of the taxable person, as described in this ruling, and for which the inspector cannot be blamed in any way;

b) the refund is the result of a recalculation of the allocation key for the deduction of turnover tax on general costs, under the circumstances described in this ruling?

(2) If question 1 is answered in the affirmative, from what day is there a right to the reimbursement of default interest?"

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