

ECJ Decides Sale of Shopping Centre Property To be Treated as Transfer of Business for VAT Purposes: *Dyrektor Izby Administracji Skarbowej w Łodzi* (Case C-729/21) (VAT)

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On 16 January 2023, the Court of Justice of the European Union (ECJ) gave its decision in the case of *W. sp. z o.o. v. Dyrektor Izby Administracji Skarbowej w Łodzi* (Case [C-729/21](#)) on the classification for VAT purposes of the purchase of a shopping centre as part of a business not subject to VAT or as a purchase of an asset in the form of immovable property subject to VAT and therefore deductible for VAT purposes.

The ruling of the ninth Chamber of the ECJ is summarized below.:

"Article 19(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [VAT Directive (2006/112)] must be interpreted as meaning that it does not preclude a provision of national law which provides that the 'transfer of all or part of an asset' is not subject to value added tax, without making its applicability subject to the condition that the transferee remains the same person as the transferor.

Article 19(1) of [VAT Directive \(2006/112\)](#) must be interpreted as meaning that the transfer of part of an undertaking, even though not all the tangible and intangible assets constituting that undertaking have been transferred to the purchaser, is covered by the concept of 'transfer of all or part of the assets', provided that all the assets transferred are sufficient to enable that undertaking to pursue an independent economic activity".

(Unofficial translation)

A more substantial report containing details of the ECJ's decision will be published subsequently in the ECJ Case Law collection.