

ECJ Decides on Possibility of Considering Taxable Person for VAT Purposes Municipality Carrying Out Renewable Energy Projects: *Gmina O.* (Case C-612/21) (VAT)

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Report from IBFD Knowledge Centre

On 30 March 2023, the Court of Justice of the European Union (ECJ) gave its decision in *Gmina O. v Dyrektor Krajowej Informacji Skarbowej* ([Case C-612/21](#)) based on a number of grounds.

"On those grounds, the Court (Seventh Chamber) hereby rules:

Article 2(1), Article 9(1) and Article 13(1) of Council Directive [2006/112/EC of 28 November 2006](#) on the common system of value added tax must be interpreted as meaning that the fact that a municipality supplies and installs, through an undertaking, renewable energy systems for its residents who own their property and who have expressed their wish to be equipped with renewable energy systems, where such an activity is not intended to obtain income on a continuing basis and gives rise, on the part of those residents, solely to a payment covering at most one quarter of the costs incurred, the balance being financed by public funds, does not constitute a supply of goods and services subject to value added tax."

For a previous TNS regarding the case, see [Poland-2, News 28 February 2022](#).

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