

# ECJ Decides That Exemption of Intra-Group Dividends under Tax Integration Scheme Is Not Compatible With EU Law: *Manitou BF Bricolage Investissement France* (Joined Cases C-407/22 and C-408/22) (Direct Tax)

11 May 2023

Report from IBFD Knowledge Centre

On 11 May 2023, the Court of Justice of the European Union (ECJ) gave its decision in the joined cases of *Ministre de l'Economie, des Finances et de la Relance v. Manitou BF SA* ([Case C-407/22](#), C-408/22) based on a number of grounds.

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

Article 49 [TFEU](#) must be interpreted as precluding legislation of a Member State relating to a tax integration scheme under which

- a resident parent company that has opted for tax integration with resident companies is entitled to neutralisation as regards the add-back of a proportion of costs and expenses, fixed at 5% of the net amount of the dividends received by it from its subsidiaries located in other Member States who, had they been resident, would have been eligible in practice, if they so elected,
- whereas a resident parent company that has not opted for such tax integration despite the existence of capital links with other resident companies permitting it is refused such neutralisation."

For a previous TNS regarding the case, see [France-2, News 5 September 2022](#).

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

