

ECJ Preliminary Ruling Request (VAT): *Novo Nordisk* (Case C-248/23) – Fővárosi Törvényszék Submits Referral on Applicability of Bad Debt Relief on Payments Made by Order of Law

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Report from Martha Caziero, VAT Associate, IBFD

On 3 July 2023, a preliminary ruling request, lodged on 18 April 2023, was published in the Official Journal of the European Union. By this, the Fővárosi Törvényszék (Court of Budapest) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case of *Novo Nordisk AS v. Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága* (C-248/23) on the compatibility of a national provision that limits the possibility for pharmaceutical companies to reduce the taxable amount of certain transactions with article 90(1) of the [VAT Directive \(2006/112\)](#). In particular, according to the national provision at issue, pharmaceutical companies make payments to the state health insurance agency based on the revenues obtained from the sale of publicly funded pharmaceutical products, which they are not entitled to reduce subsequently for VAT purposes. The limitation is motivated by the fact that: (i) the payments are made by order of law; (ii) they are made under a funding volume agreement; (iii) the pharmaceutical companies can deduct expenses for research and development; and (iv) the payments are made to the tax authorities, which transfer them to the State health insurance agency.

The Fővárosi Törvényszék requested the ECJ to answer the following question:

"Must Article 90(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [[VAT Directive \(2006/112\)](#)] be interpreted as precluding the national legislation at issue in the main proceedings, under which a pharmaceutical company which makes payments ex lege to the State health insurance agency based on the revenue obtained from publicly funded pharmaceutical products is not entitled subsequently to reduce the taxable amount, by reason of the fact that the payments are made ex lege, that payments made under a funding volume agreement and investments made by the company in research and development in the health sector may be deducted from the base amount for the payment obligation, and that the amount payable is collected by the State tax authority, which immediately transfers it to the State health insurance agency?"

