

ECJ Decides on Reimbursement of Overpaid VAT from Upstream Suppliers: *Schütte* (Case C-453/22) (VAT)

7 September 2023

Report from IBFD Knowledge Centre

On 7 September 2023, the Court of Justice of the European Union (ECJ) gave its decision in *Michael Schütte v. Finanzamt Brilon* (Case C-453/22) based on a number of grounds.

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

[Council Directive 2006/112/EC](#) of 28 November 2006 on the common system of value added tax, as amended by [Council Directive 2010/45/EU](#) of 13 July 2010, and the principle of value added tax (VAT) neutrality and the principle of effectiveness must be interpreted as requiring that a receiver of supplies of goods has a direct right to claim from the tax authorities the reimbursement of improperly invoiced VAT paid to his or her suppliers and paid by those suppliers to the public purse, together with related interest, in circumstances where, first, that receiver cannot be criticised for fraud, abuse or negligence but cannot claim that reimbursement from those suppliers due to the limitation period provided for by national law and, second, there is a procedural possibility of those suppliers subsequently claiming reimbursement of the overpaid tax from the tax authorities after having adjusted the invoices that were issued initially to the receiver of those supplies. Failing reimbursement of the VAT improperly charged by the tax authorities within a reasonable time, the damage suffered on account of the unavailability of the amount equivalent to that improperly charged VAT must be compensated by the payment of default interest."

For a previous TNS regarding the case, see [Germany-1, News 26 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.