

CJEU JUDGEMENT ON VAT DEDUCTION BY HOLDING COMPANIES

We wish to alert you to a recent judgement of the Court of Justice of the European Union ("CJEU") in joined cases **C-108/14** and **C-109/14** dated 16 July 2015. The judgement relates to the right to deduct VAT paid by holding companies for the acquisition of capital invested in their subsidiaries.

CJEU held that:

- the expenditure connected with the acquisition of shareholdings in subsidiaries incurred by a holding company which involves itself in their management and which, on that basis, carries out an economic activity should be regarded as attributed to that company's economic activity and the VAT paid on that expenditure gives rise to the right to full deduction;
- the expenditure connected with the acquisition of shareholdings in subsidiaries incurred by a holding company which involves itself in the management only of some of those subsidiaries and which, with regard to the others, does not carry out an economic activity should be regarded as only partially belonging to its general expenditure, so that the VAT paid on that expenditure may be deducted only in proportion to that which is inherent to the economic activity.

CJEU also held that the determination of the methods and criteria for apportioning input VAT between economic and non-economic activities is in the discretion of the Member States which, when exercising that discretion, should have regard to the aims and broad logic of Sixth Directive and, on that basis, provide for a method of calculation which objectively reflects the part of the input expenditure actually to be attributed, respectively, to those two types of activity.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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