

To: Taxation WG

From: Fabiola Bertolani

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Reference: ECO-TAX-24-102

Subject: National legislation which limits the deduction of interest in respect of an intra-group loan is compatible with EU

Summary

On **4 October 2024**, the Court of Justice of the European Union (CJEU) provided new clarification through the [judgement](#) that was issued relative to the rules on corporation tax in the Netherlands (case C-585/22).

Specifically, the decision of the CJEU in the case is that **national legislation which limits the deduction of interest paid in respect of an intra-group loan is compatible with EU law.**

The Court held that such legislation is justified if it pursues a legitimate objective, such as combating tax fraud, and is proportionate to achieving that objective. In this case, the Dutch legislation was found to be proportionate because it established a rebuttable presumption that interest paid on intra-group loans is artificial, and it required taxpayers to demonstrate that the loan was made under arm's length conditions. The Court also stated that the principle of proportionality requires that the deduction of interest should be limited to the portion that reflects economic reality. If the loan is artificial, the deduction of interest may be denied entirely.

Next steps

The secretariat will continue monitoring the main developments relative to taxation policy in the EU, including CJEU rulings.