

VAT Alert: First French Application of the Skandia ECJ caselaw



The Administrative Court of Appeal of Versailles denied to cancel the VAT reassessment related to the re-invoicing of costs by BNP Paribas Securities Services to its branches in Frankfurt, London and Madrid. After having noted that those branches are members of VAT groups in their respective countries and therefore benefit from the status of separate taxable persons from BNP Paribas Securities Services, the Court ruled that BNP Paribas Securities Services did not provide any details on the transactions carried out by the respective groups that would make it possible to determine the deductibility of its input VAT on the expenses incurred by it according to whether they are allocated to transactions subject to VAT or to exempt transactions.

The French Supreme Court rules that according to Article 11 of the VAT Directive, as read by the ECJ in its ruling C-7/13 of September 17th, 2014, that services supplied by a head office to its branch established in another Member State constitute taxable transactions when the branch is a member of a VAT group.

Consequently, the deductibility of the input VAT on expenses incurred by the head office depended on the VAT regime of re-invoicing transactions to those branches and not on the VAT regime of operations carried out by their groups.

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