

# INTRA-GROUP TRANSFER PRICING ADJUSTMENTS & VAT

## Arcomet case C-726/23

### Executive summary

The *Arcomet* judgment (C-726/23, 4 September 2025) clarifies the VAT treatment of intra-group transfer pricing adjustments. The Court held that such adjustments may constitute consideration for taxable services where they remunerate actual services supplied, and the right to deduct input VAT depends on the substantive and formal conditions set out in Articles 168 and 178 of the VAT Directive. The ruling confirms that tax authorities may require additional documentation beyond the invoice to allow input VAT deduction but cannot be required to establish the necessity or appropriateness of those services in respect of taxable operations.

### I. Facts

Arcomet Romania, part of the Arcomet Group active in the crane rental sector, concluded in 2012 an intra-group agreement with its Belgian parent company. The agreement allocated distinct responsibilities between the two entities, with remuneration determined under the Transactional Net Margin Method (TNMM) and subject to year-end adjustments (“true-ups”) whenever the Romanian subsidiary’s operating margin fell outside the agreed range (-0.71% to 2.74%).

Under the 24 January 2012 contract, Arcomet Belgium undertook core commercial and managerial responsibilities: strategic planning, negotiation of framework agreements with third-party suppliers, definition of financial terms and conditions, engineering, fleet management, and quality and safety management at group level. It also bore the main economic risks associated with the group’s activity.

For its part, Arcomet Romania undertook to purchase and hold the equipment necessary for operations in Romania, and to be responsible for the sale and rental of cranes as well as the provision of related services in the local market.

Following this allocation of functions and risks, for the years 2011 to 2013, Arcomet Belgium issued invoices to Arcomet Romania reflecting TNMM-based year-end adjustments. Arcomet Romania accounted for these invoices under the reverse charge mechanism and deducted the related input VAT. The Romanian tax authorities challenged this treatment, on the ground that Arcomet Romania had not demonstrated that the services invoiced had been supplied and that those services were necessary for the purposes of Arcomet Romania’s taxable transactions.

### II. Preliminary questions

Arcomet Romania appealed the denial of input tax VAT deduction, and the Romanian court referred two questions to the ECJ: first, whether TNMM adjustments could be regarded as consideration for services within the scope of VAT; second, whether Articles 168 and 178 of the VAT Directive allow tax authorities to require evidence beyond invoices, additional evidence justifying the use of the services purchased for the purposes of the taxable person’s taxable transactions, or must that analysis of the right to deduct VAT be based solely on the direct link between purchase and taxable operations carried out by the taxable person.

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## III. ECJ Decision

On the first question, the Court held that TNMM adjustments can indeed represent consideration for a supply of services, provided there is a direct link between the payments and identifiable services performed by the parent. The decisive criterion is whether the payments remunerate actual services and risks undertaken rather than merely reallocating profits for accounting purposes. The assessment is factual and must be based on the contractual framework and the evidence of services actually rendered.

On the second question, the Court reaffirmed its reasoning in the Weatherford case (C-527/23): input VAT deduction depends on substantive conditions—the supply must be genuine and used for the recipient’s taxable operations—and formal conditions, notably the presence of an invoice. Invoices must contain sufficient information to identify the nature of the services, but if they are incomplete, deduction cannot automatically be refused as long as the tax administration can verify the substantive conditions through other means. Authorities may require additional supporting documents, even from the supplier, but only within the limits of necessity and proportionality.

The Court also dismissed the notion that taxpayers must demonstrate the “economic necessity” of the services. Such an assessment is irrelevant under the VAT rules: what matters is that the services were actually supplied and used for taxable activities, not whether they were efficient or appropriate from a business perspective. The burden of proof, however, remains with the taxpayer, who must produce reliable and verifiable documentation to justify the link with taxed transactions to support the deduction.

## IV. Practical implications

The Arcomet ruling highlights the importance for taxpayers to ensure that transfer pricing adjustments are properly documented also for VAT purposes. Groups applying TNMM or similar policies should make sure that invoices clearly describe the nature of the services covered and are supported by robust evidence that those services were actually provided and used in the taxable business of the recipient. This means that contracts, functional analyses, deliverables and other supporting records should be aligned and kept available for inspection. In practice, companies should not rely solely on the TP calculation but proactively maintain documentation that demonstrates the link between the adjustment and concrete services, thereby reducing the risk of challenges from tax authorities.

## V. Key considerations

To remain compliant with VAT requirements in the context of transfer pricing adjustments, operators should:

- ▶ Review TNMM/PSM policies: assess whether year-end adjustments reflect remuneration for actual services or merely profit balancing, and ensure that contracts and invoices are consistent with this distinction;
- ▶ Keep substantive evidence: maintain deliverables, reports, timesheets and other records proving that services were actually provided and used for taxable activities;
- ▶ Substantiate the VAT link: ensure that the right to deduct input VAT is supported by clear evidence that the adjustment corresponds to concrete services rendered and directly used taxable transactions;
- ▶ Ensure adequate reporting in VAT returns.

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