

Operative part of the judgment

Legislation of a Member State, such as that at issue in the main proceedings which, for the purposes of calculating inheritance tax, excludes the application of certain tax advantages to an estate in the form of a shareholding in a capital company established in a third country, while conferring those advantages in the event of the inheritance of such a shareholding when the registered office of the company is in a Member State, primarily affects the exercise of the freedom of establishment for the purposes of Article 49 TFEU et seq., since that holding enables the shareholder to exert a definite influence over the decisions of that company and to determine its activities. Those Treaty provisions are not intended to apply to a situation concerning a shareholding held in a company which has its registered office in a third country.

⁽¹⁾ OJ C 113, 9.4.2011.

**Judgment of the Court (Fourth Chamber) of 19 July 2012
(reference for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — A Oy**

(Case C-33/11) ⁽¹⁾

(Sixth Directive — Exemptions — Article 15(6) — Exemption for the supply of aircraft used by airlines operating for reward chiefly on international routes — Supply of aircraft to an operator who makes them available to such an undertaking — Concept of ‘operating for reward on international routes’ — Charter flights)

(2012/C 295/10)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

A Oy

Re:

Reference for preliminary ruling — Korkein hallinto-oikeus — Interpretation of Article 15(6) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Exemption for certain transactions relating to aircraft used by airlines operating for reward chiefly on international routes — Whether transactions of companies operating chiefly international charter flights to satisfy the needs of businesses and private individuals — Delivery of aircraft to an operator which does not itself operate for reward chiefly on international routes, but which makes the aircraft available to such an operator.

Operative part of the judgment

1. The wording ‘operating for reward on international routes’ within the meaning of Article 15(6) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 92/111/EEC of 14 December 1992 must be interpreted as encompassing also international charter flights to meet demand from undertakings and private persons.
2. Article 15(6) of Directive 77/388, as amended by Directive 92/111, must be interpreted as meaning that the exemption for which it provides also applies to the supply of an aircraft to an operator who is not itself an ‘airline operating for reward chiefly on international routes’ within the meaning of that provision but which acquires that aircraft for the purposes of exclusive use thereof by such an undertaking.
3. The circumstances referred to by the national court, namely the fact that the purchaser of the aircraft passes on the charge corresponding to its use to an individual who is its shareholder and who uses that aircraft essentially for his own business and/or private purposes, with the airline also having the opportunity to use it for other flights, are not such as to affect the answer to the second question.

⁽¹⁾ OJ C 89, 19.3.2011.

**Judgment of the Court (Second Chamber) of 19 July 2012
(reference for a preliminary ruling from the Bundesfinanzhof — Germany) — Finanzamt Frankfurt am Main V-Höchst v Deutsche Bank AG**

(Case C-44/11) ⁽¹⁾

(Directive 2006/112/EC — Article 56(1)(e) — Article 135(1)(f) and (g) — Exemption for transactions relating to the management of securities-based assets (portfolio management))

(2012/C 295/11)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt Frankfurt am Main V-Höchst

Defendant: Deutsche Bank AG