

**Judgment of the Court (First Chamber) of 7 March 2013
(request for a preliminary ruling from the First-tier
Tribunal (Tax Chamber) — United Kingdom) — Wheels
Common Investment Fund Trustees Ltd and Others v
Commissioners for Her Majesty's Revenue and Customs**

(Case C-424/11) ⁽¹⁾

*(Value added tax — Directive 77/388/EEC — Exemption of
the management of special investment funds — Scope —
Occupational retirement pension schemes)*

(2013/C 123/06)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Appellants: Wheels Common Investment Fund Trustees Ltd,
National Association of Pension Funds Ltd, Ford Pension Fund
Trustees Ltd, Ford Salaried Pension Fund Trustees Ltd, Ford
Pension Scheme for Senior Staff Trustee Ltd

Respondent: Commissioners for Her Majesty's Revenue and
Customs

Re:

Request for preliminary ruling — First-tier Tribunal (Tax
Chamber) — Interpretation of Article 13B(d)(6) of Sixth
Council Directive 77/388/EEC of 17 May 1977 on the harmon-
isation 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) — Interpretation of Article
135(1)(g) of Council Directive 2006/112/EC of 28 November
2006 on the common system of value added tax (OJ 2006
L 347, p.1) — Exemptions — Scope of the exemption for
the management of special investment funds — Inclusion of
occupational retirement pension schemes

Operative part of the judgment

Article 13B(d)(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 and Article 135(1)(g) of Council
Directive 2006/112/EC of 28 November 2006 on the common
system of value added tax must be interpreted as meaning that an
investment fund pooling the assets of a retirement pension scheme is
not a 'special investment fund' within the meaning of those provisions,
management of which may be exempted from value added tax in the
light of the objective of those directives and the principle of fiscal
neutrality, where the members of the scheme do not bear the risk

arising from the management of the fund and the contributions which
the employer pays into the scheme are a means by which he complies
with his legal obligations towards his employees.

⁽¹⁾ OJ C 311, 22.10.2011.

**Judgment of the Court (Fourth Chamber) of 7 March 2013
(request for a preliminary ruling from the Cour d'appel de
Bruxelles — Belgium) — DKV Belgium v Association belge
des consommateurs Test-Achats ASBL**

(Case C-577/11) ⁽¹⁾

*(Freedom to provide services — Freedom of establishment —
Directives 73/239/EEC and 92/49/EEC — Direct insurance
other than life assurance — Freedom to set rates — Health
insurance contracts not linked to professional activity —
Restrictions — Overriding reasons in the public interest)*

(2013/C 123/07)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Applicant: DKV Belgium SA

Défendant: Association belge des consommateurs Test-Achats
ASBL

Re:

Request for a preliminary ruling — Cour d'appel de Bruxelles —
Interpretation of Article 49 and 56 TFEU, of the second
paragraph of Article 29 and Article 39(3) of Council Directive
92/49/EEC of 18 June 1992 on the coordination of laws, regu-
lations and administrative provisions relating to direct insurance
other than life assurance and amending Directives 73/239/EEC
and 88/357/EEC (Third Non-life Insurance Directive) (OJ 1992
L 228, p. 1) and of Article 8(3) of Council Directive
73/239/EEC of 24 July 1973 on the coordination of laws,
regulations and administrative provisions relating to the
taking-up and pursuit of the business of direct insurance
other than life assurance (OJ 1973 L 228, p. 3) — National
legislation providing, with regard to health insurance contracts
not linked to professional activity, provisions under which the
premium, the excess payable and the benefit can be adapted, on
the annual date of the premium, only on the basis of specific
criteria — System of prior approval of rates — Restriction on
the principles of the freedom of establishment and the freedom
to provide services — Overriding reasons in the general interest