

## I

(Information)

## COURT OF JUSTICE

## COURT OF JUSTICE

**Judgment of the Court (Grand Chamber) of 21 February 2006 (reference for a preliminary ruling from the VAT and Duties Tribunal, London) — Halifax plc, Leeds Permanent Development Services Ltd, County Wide Property Investments Ltd v Commissioners of Customs & Excise**

(Case C-255/02) <sup>(1)</sup>

**(Sixth VAT Directive — Article 2(1), Article 4(1) and (2), Article 5(1) and Article 6(1) — Economic activity — Supplies of goods — Supplies of services — Abusive practice — Transactions designed solely to obtain a tax advantage)**

(2006/C 131/01)

Language of the case: English

**Referring court**

VAT and Duties Tribunal, London

**Parties to the main proceedings**

*Applicants:* Halifax plc, Leeds Permanent Development Services Ltd, County Wide Property Investments Ltd

*Defendant:* Commissioners of Customs & Excise

**Re:**

Reference for a preliminary ruling — VAT and Duties Tribunal, London — Interpretation of Directive 77/388/EEC: Sixth Council Directive 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) — Transactions carried out with the sole intention of obtaining a tax advantage — Transactions without an independent economic purpose

**Operative part of the judgment**

1. Transactions of the kind at issue in the main proceedings constitute supplies of goods or services and an economic activity within the meaning of Article 2(1), Article 4(1) and (2), Article 5(1) and Article 6(1) 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 95/7/EC of 10 April 1995, provided that they satisfy the objective criteria on which those concepts are based, even if they are carried out with the sole aim of obtaining a tax advantage, without any other economic objective.
2. The Sixth Directive must be interpreted as precluding any right of a taxable person to deduct input VAT where the transactions from which that right derives constitute an abusive practice.

For it to be found that an abusive practice exists, it is necessary, first, that the transactions concerned, notwithstanding formal application of the conditions laid down by the relevant provisions of the Sixth Directive and of national legislation transposing it, result in the accrual of a tax advantage the grant of which would be contrary to the purpose of those provisions. Second, it must also be apparent from a number of objective factors that the essential aim of the transactions concerned is to obtain a tax advantage.

3. Where an abusive practice has been found to exist, the transactions involved must be redefined so as to re-establish the situation that would have prevailed in the absence of the transactions constituting that abusive practice.

---

<sup>(1)</sup> OJ C 233, 28.09.2002.

---