

Case C-434/05

**Stichting Regionaal Opleidingen Centrum Noord-Kennemerland/
West-Friesland (Horizon College)**

v

Staatssecretaris van Financiën

(Reference for a preliminary ruling
from the Hoge Raad der Nederlanden)

(Sixth VAT Directive — Exemptions — Article 13A(1)(i) and (2) — Teaching staff
employed by one educational establishment made available, for consideration,
to another)

Opinion of Advocate General Sharpston delivered on 8 March 2007 I - 4796
Judgment of the Court (Third Chamber), 14 June 2007 I - 4821

Summary of the Judgment

- 1. Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Exemptions provided for in the Sixth Directive (Council Directive 77/388, Art. 13A(1)(i))*

2. *Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Exemptions provided for in the Sixth Directive*
(*Council Directive 77/388, Art. 13A(1)(i) and (2)*)

1. Article 13A(1)(i) of the Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes is to be interpreted as meaning that the expression ‘children’s or young people’s education, school or university education, vocational training or retraining’ does not cover the making available, for consideration, of a teacher to an educational establishment, within the meaning of that provision, in which that teacher temporarily carries out teaching duties under the responsibility of that establishment, even if the body which makes the teacher available is itself a body governed by public law that has an educational aim, or another organisation defined by the Member State concerned as having similar objects.

activity referred to in Article 13A(1)(i) of the Sixth Directive consists of a combination of elements which include, along with those relating to the teacher/student relationship, also those which make up the organisational framework of the establishment concerned.

(see paras 18-20, 24, operative part 1)

It is true that the transfer of knowledge and skills between a teacher and students is a particularly important element of educational activity. However, the fact that such a transfer is taking place is not, by itself, sufficient for the mere supply of a teacher to an educational establishment, for the purpose of carrying out teaching duties under the responsibility of that establishment, to be described as educational activity. The educational

2. Article 13A(1)(i) of the Sixth Directive, read in conjunction with Article 13A(2) of that directive, is to be interpreted as meaning that the making available, for consideration, of a teacher to an educational establishment in which that teacher temporarily carries out teaching duties under the responsibility of that establishment, may constitute a transaction that is exempt from VAT on the basis that it is a supply of services ‘closely

related' to education, within the meaning of Article 13A(1)(i), if such a teacher placement is a means of better enjoying the education deemed to be the principal service, provided, however, — which it is for the national court to verify:

- both that principal service and the placement which is closely related to it are provided by bodies referred to in Article 13A(1)(i), taking into account, where appropriate, any conditions which may have been introduced by the Member State concerned pursuant to Article 13A(2)(a);
- that placement is of a nature and quality such that, without recourse to such a service, there could be no assurance that the education provided by the host establishment and, consequently, the education from which its students benefit, would have an equivalent value; and
- the basic purpose of such a placement is not to obtain additional income by carrying out a transaction which is in direct competition with commercial enterprises liable for VAT.

(see para. 46, operative part 2)