

Case C-253/07

**Canterbury Hockey Club
and
Canterbury Ladies Hockey Club**

v

The Commissioners for Her Majesty's Revenue and Customs

(Reference for a preliminary ruling
from the High Court of Justice of England and Wales, Chancery Division)

(Sixth VAT Directive — Exemption — Services linked to sport — Services
supplied to persons taking part in sport — Services supplied to unincorporated
associations and to corporate persons — Included — Conditions)

Judgment of the Court (Fourth Chamber), 16 October 2008 I - 7824

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)(m))*

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)(m))

1. Article 13A(1)(m) of 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, in the context of persons taking part in sport, it includes services supplied to corporate persons and to unincorporated associations, provided that — which it is for the national court to establish — those services are closely linked and essential to sport, that they are supplied by non-profit-making organisations and that their true beneficiaries are persons taking part in sport.

such as sports clubs, provided that the requirements set forth in Article 13A(1)(m) and (2)(b) are fulfilled. To require that the services in question be directly supplied to natural persons taking part in sport within an organisational structure put in place by a sports club would mean that a larger number of supplies of services essential to sport would be automatically and inevitably excluded from the benefit of that exemption, irrespective of the question whether those services were directly linked to persons taking part in sport and who was the true beneficiary of those services. Such a result would run counter to the purpose of the exemption provided for by that provision which is to extend the benefit of that exemption to services supplied to individuals taking part in sport.

Article 13A(1)(m) of the Sixth Directive is not intended to confer the benefit of the exemption under that provision only on certain types of sport but covers sport in general, which also includes sports necessarily practised by individuals in groups of persons or practised within organisational and administrative structures put in place by unincorporated associations or corporate persons,

Besides, the principle of fiscal neutrality, in compliance with which the exemptions provided for in Article 13 of the Sixth Directive must be applied would be disregarded if the possibility of invoking the benefit of the exemption under Article 13A(1)(m) of the Sixth Directive depended on the organisational structure particular to the sporting activity practised.

Thus, in order to ensure the effective application of the exemption under Article 13A(1)(m) of the Sixth Directive, that provision must be interpreted as meaning that services supplied in connection with, among others, sports practised in groups of persons or within organisational structures put in place by sports clubs are, generally, eligible to benefit from the exemption under that provision. It follows that, to determine whether supplies of services are exempt, the identity of the material recipients of those services and the legal form under which they benefit from them are irrelevant.

(see paras 27, 29-31, 35,
operative part 1)

the Member States to limit the exemption under that provision by reference to the recipients of the services in question.

Indeed, the possible restrictions on the benefit of the exemptions provided for by Article 13A of the Sixth Directive may be imposed only in the context of the application of paragraph 2 of that provision. Thus, when a Member State accords an exemption for certain services closely linked to sport or physical education supplied by non-profit-making organisations, it may not make that exemption subject to conditions other than those laid down in Article 13A(2) of the Sixth Directive. Since that provision does not lay down restrictions as regards recipients of the services in question, the Member States have no power to exclude a certain group of recipients of those services from the benefit of the exemption in question.

2. The expression 'certain services closely linked to sport', in Article 13A(1)(m) of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes, does not allow

(see paras 39, 40,
operative part 2)