

## Case C-530/09

**Inter-Mark Group sp. z o.o. sp. komandytowa**

**v**

**Minister Finansów**

(Reference for a preliminary ruling  
from the Wojewódzki Sąd Administracyjny w Poznaniu)

(VAT — Directive 2006/112/EC — Articles 52(a) and 56(1)(b) and (g) — Place of taxable transactions — Place of supply for tax purposes — Design, hiring out and assembly of fair stands)

Opinion of Advocate General Bot delivered on 13 January 2011 . . . . . I - 10678

Judgment of the Court (First Chamber), 27 October 2011 . . . . . I - 10691

### Summary of the Judgment

*Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Supply of services — Determination of the point of reference for tax purposes — Design, temporary provision and possibly transport and assembly of an exhibition or fair stand (Council Directive 2006/112, Arts 52(a) and 56(1)(b) and (g))*

Directive 2006/112 on the common system of value added tax must be interpreted as meaning that a supply of services consisting of the design, temporary provision and, where necessary, the transportation and assembly of a fair or exhibition stand for clients presenting their goods or services at fairs and exhibitions may fall within the ambit of:

- Article 56(1)(b) of that directive, when that stand is designed or used for purposes of advertising;
- Article 52(a) of that directive, when that stand is designed and provided for a specific fair or exhibition on a cultural, artistic, sporting, scientific, educational, entertainment or similar theme, or when it corresponds to a model in respect of which the organiser of a specific fair or exhibition has prescribed the form, size, material composition or visual appearance;
- Article 56(1)(g) of that directive, when the temporary provision, for payment, of the constituent material elements of that stand constitutes a determining element of that supply.

In order for it to be possible for the stand to be classified as a supply of advertising services, within the meaning of Article 56(1)(b) of Directive 2006/112, it is sufficient if that stand is used for the dissemination of a message intended to inform the public of the existence or qualities of the product or service offered by the hirer with a view to increasing the sales of that product or service or if it forms an inseparable part of an advertising campaign and contributes to conveying the advertising message. This will be the case, in particular, when the stand constitutes an aid for the dissemination of a message informing the public of the existence or qualities of the products or is used for the organisation of promotional events.

By contrast, when the stand in question does not fulfil those conditions, in order for it to be possible for that supply to be classified as ancillary for the purpose of Article 52(a) of Directive 2006/112, the stand must be provided for a fair or an exhibition which takes place, whether on one occasion or repeatedly, in a specific location. As that provision requires the charging of VAT at the place where the service is physically carried out, the application of that provision to the supply of a stand which is used at a multitude of

fairs or exhibitions taking place in several Member States would be likely to be excessively complex and would thus jeopardise the reliable and correct charging of VAT.

is used at several fairs or exhibitions taking place in different Member States.

Finally, should the supply of services not fall within the ambit of either Article 56(1)(b) or Article 52(a) of Directive 2006/112, it may be classified as the hiring out of movable tangible property, within the meaning of Article 56(1)(g) of Directive 2006/112, under those conditions and, in particular, when that stand

It is for the national courts, which alone are competent to assess the facts, to establish, in the light of the specific circumstances of each case, the essential characteristics of the supply of services in question in order to determine its classification in the light of Directive 2006/112.

(see paras 18, 20-21, 26-27, 32-33, operative part)