

2. Does it affect the answer to question 1 that:

- (a) In some cases the contractual rights are acquired in return for the customer depositing with MRL pre-existing rights of occupation held by the customer in timeshare accommodation at a particular place for one or more fixed weeks?
- (b) the customer may in any year decide not to redeem his or her Points entitlement for that year in whole or in part for any rights of occupation and may instead elect to augment his or her entitlement in the following year, or, subject to the contractual conditions of the scheme in any year, may augment that year's entitlement by 'borrowing' from his or her entitlement to Points in the following year;
- (c) the properties comprising the pool of accommodation may change between the time when Points Rights are acquired and the time when Points are redeemed for the right to occupy a property;
- (d) the number of Points to which the customer is entitled each year may be varied by the supplier in accordance with the contractual conditions of the scheme;
- (e) The Appellant may from time to time arrange for persons holding Points Rights to have access to an external timeshare programme;
- (f) The Appellant may from time to time make arrangements for persons holding Points Rights to exchange their Points for accommodation in hotels operated by the Appellant or for other benefits provided by the Appellant?

3. Where a taxable person makes supplies of the services described in questions 1 and 2 above,

- (a) are these 'services connected with immovable property' within the meaning of Article 9(2)(a) of the Sixth VAT Directive (now Article 45 of Directive 2006/112);
- (b) if the answer to question 3 a) is 'Yes': in circumstances where Members of the Club may exercise their contractual rights by occupying timeshare accommodation in more than one Member State, and it is not known at the time of supply which accommodation will be so occupied, how is the place of supply to be determined?

Reference for a preliminary ruling from the Rechtbank Haarlem (Netherlands), lodged on 16 July 2009 — Premis Medical BV v Inspecteur van de Belastingdienst/Douane Rotterdam, kantoor Rotterdam Laan op Zuid

(Case C-273/09)

(2009/C 267/49)

Language of the case: Dutch

Referring court

Rechtbank Haarlem

Parties to the main proceedings

Applicant: Premis Medical BV

Defendant: Inspecteur van de Belastingdienst/Douane Rotterdam, kantoor Rotterdam Laan op Zuid

Questions referred

1. Is Commission Regulation (EC) No 729/2004 ⁽¹⁾ of 15 April 2004, published on 20 April 2004 in *Official Journal of the European Union* L 113, page 5, with a corrigendum published on 7 May 2004 in *Official Journal of the European Union* L 173, page 9, valid in the sense that the annex contained in the corrigendum is the valid annex? If so:
2. Is Commission Regulation (EC) No 729/2004 of 15 April 2004, published on 20 April 2004 in *Official Journal of the European Union* L 113, page 5, with a corrigendum published on 7 May 2004 in *Official Journal of the European Union* L 173, page 9, invalid on the ground that the Commission has restricted the scope of heading 9021 in that regulation? If the regulation is valid:
3. Is Commission Regulation (EC) No 729/2004 of 15 April 2004, published on 20 April 2004 in *Official Journal of the European Union* L 113, page 5, with a corrigendum published on 7 May 2004 in *Official Journal of the European Union* L 173, page 9, invalid on the ground that the Commission has incorrectly classified the rollator in the CN?

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax OJ L 347, p. 1

⁽¹⁾ Commission Regulation (EC) No 729/2004 of 15 April 2004 concerning the classification of certain goods in the Combined Nomenclature (OJ 2004 L 113, p. 5).