



Reports of Cases

Case C-511/10

Finanzamt Hildesheim

v

BLC Baumarkt GmbH & Co. KG

(Reference for a preliminary ruling from the Bundesfinanzhof)

(Sixth VAT Directive — Article 17(5), third subparagraph — Right to deduct input VAT — Goods and services used both for taxable transactions and exempt operations — Rental of a building for commercial and habitation purposes — Criteria for calculation prorata deduction of VAT)

Summary — Judgment of the Court (First Chamber), 8 November 2012

Harmonisation of fiscal legislation — Common system of value added tax — Deduction of input tax — Goods and services used both for taxable transactions and exempt operations — Rental of a building for commercial and habitation purposes — Prorata deduction — Calculation — Allocation key other than that based on turnover — Lawfulness — Condition

(Council Directive 77/388, Arts 17(5), third para., and 19(1))

The third subparagraph of Article 17(5) of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes must be interpreted as allowing Member States, for the purposes of calculating the proportion of input value added tax deductible for a given operation, such as the construction of a mixed-use building, to give precedence, as the key to allocation, to an allocation key other than that based on turnover appearing in Article 19(1) of that directive, on condition that the method used guarantees a more precise determination of the said deductible proportion.

(see para. 26, operative part)