

Questions referred

1. Should the expression 'other securities' in Article 13 B(d)[5] of the Sixth Council Directive 77/388/EEG ⁽¹⁾ (as of 1 January 2007, Article 135(1)(f) of the Eighth Directive 2006/112/EG, ⁽²⁾ subsequently amended) be interpreted as covering a Granton card, being a transferable card which is used for the (partial) payment for goods and services, and if so, is the issuing and sale of such a card therefore exempt from the levying of turnover tax?
2. If not, should the expression 'other negotiable instruments' in Article 13 B(d)(3), of the Sixth Council Directive 77/388/EEG (as of 1 January 2007, Article 135(1)(d) of the Eighth Directive 2006/112/EG, subsequently amended) be interpreted as covering a Granton card, being a transferable card which is used for the (partial) payment for goods and services, and if so, is the issuing and sale of such a card therefore exempt from the levying of turnover tax?
3. If a Granton card is an 'other security' or 'other negotiable instrument' in the aforementioned sense, is it important for the question of whether the issuing and sale thereof is exempt from the levying of turnover tax that, when that card is used, a levy on (a proportionate part of) the fee paid for it is, for all practical purposes, illusory?

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

⁽²⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Reference for a preliminary ruling from the Østre Landsret (Denmark), lodged on 17 October 2012 — ATP PensionService A/S v Skatteministeriet

(Case C-464/12)

(2013/C 9/52)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicant: ATP PensionService A/S

Defendant: Skatteministeriet

Questions referred

1. Is Article 13B(d)(6) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment ⁽¹⁾ to be interpreted as meaning that the term 'special investment funds as defined by Member States' includes pension funds such as those referred to in the main proceedings and having the following characteristics, where the Member State recognises the institutions presented in section 2 of the present order for reference as special investment funds:
 - (a) the return to the employee (the pension customer) depends on the yield realised by the pension fund's investments,
 - (b) the employer is not required to make supplementary payments in order to secure a particular return for the pension customer,
 - (c) the pension fund collectively invests the funds accumulated applying a risk-spreading principle,
 - (d) the bulk of the payments into the pension fund is based on collective agreements between labour-market organisations representing the individual employees and employers, and not on the personal decision of the individual employee,
 - (e) the individual employee may decide, on a personal basis, to make additional contributions to the pension fund,
 - (f) self-employed traders, employers and directors may opt to pay pension contributions into the pension fund,
 - (g) a predetermined portion of the pension savings collectively agreed for the employees is used to purchase a life annuity,
 - (h) the pension customers bear the pension fund's costs,
 - (i) payments into the pension fund are deductible for the purposes of national income tax within certain quantitative limits,
 - (j) payments into a personal pension plan, including a pension fund set up with a financial institution under which the contributions can be invested in a special investment fund, are deductible for the purposes of national income tax to the same extent as under point (i),

(k) the counterpart to the entitlement to deduct contributions for tax purposes under point (i) is that disbursements are taxed, and

(l) the funds accumulated are in principle to be paid out after the person concerned reaches pensionable age?

2. If the first question is answered in the affirmative, is Article 13B(d)(6) of the Sixth Directive to be interpreted as meaning that the term 'management' includes a service such as that in issue in the main proceedings (see section 1.2 of the order for reference)?

3. Is a service such as that in issue in the main proceedings concerning pension payments (see section 1.2 of the order for reference) to be regarded under the terms of Article 13B(d)(3) of the Sixth Directive as a single service or as several separate services which are to be assessed independently?

4. Is Article 13B(d)(3) of the Sixth Directive to be interpreted as meaning that the VAT exemption laid down in that provision for transactions concerning payments or transfers covers a service such as that in issue in the main proceedings concerning pension payments (see section 1.2 of the order for reference)?

5. If the fourth question is answered in the negative, is Article 13B(d)(3) of the Sixth Directive to be interpreted as meaning that the VAT exemption laid down in that provision for transactions concerning deposit and current accounts covers a service such as that in issue in the main proceedings concerning pension payments (see section 1.2 of the order for reference)?

⁽¹⁾ OJ 1977 L 145, p. 1.

Reference for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania) lodged on 25 October 2012 — Juvelta UAB v Lietuvos prabavimo rūmai

(Case C-481/12)

(2013/C 9/53)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Parties to the main proceedings

Claimant and appellant: Juvelta UAB

Defendant and respondent: Lietuvos prabavimo rūmai

Questions referred

1. Must Article 34 of the Treaty on the Functioning of the European Union be interpreted as prohibiting national legal rules under which, when seeking to sell on the market of a Member State of the European Union articles of gold imported from another Member State which are permitted to be put on the market of that Member State (of export), those articles must be stamped with a mark, of an independent assay office authorised by a Member State, which confirms that the article bearing it has been assayed by that office and in which information intelligible to consumers of the Member State of import concerning the article's standard of fineness is specified, in circumstances where such information concerning the standard of fineness is provided in a separate and additional mark or marking stamped on the same article of gold?

2. For the answer to the first question is it significant that, as in the instance under consideration, the additional marking concerning the standard of fineness of articles of gold that is provided on the articles and is intelligible to consumers of the Member State of import (for example, marking with the three Arabic numerals '585') has not been effected by an independent assay office authorised by a Member State of the European Union, but the information provided in the marking corresponds in meaning to the information specified in the mark, stamped on the same article, of the independent assay office authorised by the Member State of export (for example, the State of export's marking with the Arabic numeral '3' specifically denotes, under the legal measures of that State, a standard of fineness of 585)?

Reference for a preliminary ruling from the Okresný súd Prešov (Slovakia) lodged on 29 October 2012 — Peter Macinský, Eva Macinská v Getfin s.r.o., Financreal s.r.o.

(Case C-482/12)

(2013/C 9/54)

Language of the case: Slovak

Referring court

Okresný súd Prešov

Parties to the main proceedings

Applicants: Peter Macinský, Eva Macinská

Defendants: Getfin s.r.o., Financreal s.r.o.