

Judgment of the Court (Sixth Chamber) of 13 March 2014 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Finanzamt Saarlouis v Heinz Malburg

(Case C-204/13) ⁽¹⁾

(Taxation — Value added tax — Origin and scope of the right of deduction — Dissolution of a partnership by a partner — Acquisition of a portion of the client base of that partnership — Contribution in kind to another partnership — Payment of input tax — Whether deduction possible)

(2014/C 135/19)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicants: Finanzamt Saarlouis

Defendants: Heinz Malburg

Re:

Request for a preliminary ruling — Bundesfinanzhof — Interpretation of Articles 4(1) and (2) and 17(2)(a) 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 (OJ 1977 L 145, p. 1) — Creation and extent of the right to deduct — Acquisition of a portion of the client base of a dissolved partnership by a partner in that partnership for the purpose of bringing it into a new partnership as a contribution in kind — Whether it is possible to deduct the input tax.

Operative part of the judgment

Article 4(1) and (2) and Article 17(2)(a) 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, as amended by Council Directive 95/7/EC of 10 April 1995 must, having regard to the principle of value added tax neutrality, be interpreted as meaning that a partner in a partnership of tax advisors who acquires from that partnership a portion of its client base for the sole purpose of making that client base available directly and free of charge to a newly founded partnership of tax advisors, in which he is the principal partner, so that that partnership can use that client base in its business, without that client base however becoming part of the capital assets of the newly founded partnership, is not entitled to deduct input value added tax paid on the acquisition of the client base concerned.

⁽¹⁾ OJ C 178, 22.6.2013.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 22 January 2014 — Ryanair Ltd, Other party: PR Aviation BV

(Case C-30/14)

(2014/C 135/20)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden