

Case C-110/94

**Intercommunale voor Zeewaterontziltling (Inzo), in liquidation,
v
Belgian State**

(Reference for a preliminary ruling
from the Rechtbank van Eerste Aanleg, Bruges)

(VAT — Concept of economic activity — Status of taxable person —
Activity confined to a profitability study for a project, followed
by the abandonment of the project)

Opinion of Advocate General Lenz delivered on 23 November 1995	I - 859
Judgment of the Court (Fifth Chamber), 29 February 1996	I - 870

Summary of the Judgment

Tax provisions — Harmonization of laws — Turnover tax — Common system of value added tax — Economic activities within the meaning of Article 4 of the Sixth Directive — Carrying out of a profitability study by a company contemplating the commencement of an economic activity — Subsequent withdrawal of the status of taxable person — Not permissible except in cases of fraud or abuse

(Council Directive 77/388, Art. 4)

Even the first investment expenditure incurred for the purposes of a business may be regarded as an economic activity within the meaning of Article 4 of the Sixth Directive 77/388 on the harmonization of the laws of the Member States relating to turnover taxes and, in that context, the tax authority must take into account the declared intention of the business to engage in an activity subject to value added tax.

Where the tax authority has accepted that a company which has declared an intention to commence an economic activity giving rise to taxable transactions has the status of a taxable person for the purposes of VAT, the commissioning of a profitability study in

respect of the envisaged activity may be regarded as an economic activity within the meaning of the abovementioned provision, even if the purpose of that study is to investigate to what degree the activity envisaged is profitable. Having regard to the principle of legal certainty and the principle that VAT should be neutral as regards the tax burden on a business, and except in cases of fraud or abuse, the status of taxable person for the purposes of VAT may not be withdrawn from that company retroactively where, in view of the results of the study, it has been decided not to move to the operational phase, but to put the company into liquidation with the result that the economic activity envisaged has not given rise to taxable transactions.