

2. If the answer to Question 1 is affirmative, does the application of Article 6(2) of the Sixth Directive to services and goods other than capital goods mean that VAT is collected once during the tax period over which the deduction in respect of those services and goods is enjoyed, or must collection also occur in ensuing periods and, if so, how is the taxable amount to be determined in respect of goods and services which the taxable person does not write off?

(¹) 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).

3. Do fuel additives such as those at issue, which are not intended for use, offered for sale or used as motor fuel but which are added to motor fuel for purposes other than powering the vehicle in which the fuel is used, fall to be taxed under the second paragraph of Article 2(3) of Directive 2003/96/EC (²)?

4. If the answer to the third question is affirmative, are such additives excluded from the scope of Directive 2003/96/EC by virtue of the first indent of Article 4(b) of that Directive?

5. Is the duty imposed by the UK on the above fuel additives precluded by Community law and in particular, by Article 3 of Directive 92/12/EEC (³)?

(¹) OJ L 316, p. 12.

(²) OJ L 283, p. 51.

(³) OJ L 76, p. 1.

Reference for a preliminary ruling from High Court of Justice (Chancery Division) (United Kingdom) made on 22 November 2007 — Afton Chemical Limited v The Commissioners of Her Majesty's Revenue & Customs

(Case C-517/07)

(2008/C 22/61)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicant: Afton Chemical Limited

Defendant: The Commissioners of Her Majesty's Revenue & Customs

Questions referred

1. Do fuel additives such as those at issue, which are not intended for use, offered for sale or used as motor fuel but which are added to motor fuel for purposes other than powering the vehicle in which the fuel is used, fall to be taxed under Article 2(3) of Directive 92/81/EC?

2. If the answer to the first question is affirmative, do such additives fall within the scope of the exemption under Article 8(1) of Directive 92/81/EC (¹)?

Appeal brought on 22 November 2007 by the Commission of the European Communities against the judgment of the Court of First Instance (Fourth Chamber, Extended Composition) delivered on 12 September 2007 in Case T-196/02 MTU Friedrichshafen GmbH v Commission of the European Communities

(Case C-520/07 P)

(2008/C 22/62)

Language of the case: German

Parties

Appellant: Commission of the European Communities (represented by: K. Gross, B. Martenczuk)

Other party to the proceedings: MTU Friedrichshafen GmbH

Form of order sought

— Annul the contested judgment of the Court of First Instance delivered on 12 September 2007 in Case T-196/02 MTU Friedrichshafen GmbH v Commission of the European Communities,