



Reports of Cases

Order of the Court (Fourth Chamber) of 13 December 2012 – Danilo Debiasi v Agenzia delle Entrate — Ufficio de Parma

(Case C-560/11)

(Articles 53(2) and 94 of the Rules of Procedure of the Court — Manifest inadmissibility — Article 99 of the Rules of Procedure — Reply leaving room for no reasonable doubt — Taxation — VAT — Article 17(2)(a) of the Sixth VAT Directive — Deduction of input tax paid — Public or private healthcare establishments engaged in an exempt activity — National legislation excluding deduction of the tax on the purchase of goods or services used in exempt activities — Deductible proportion)

1. *Questions referred for a preliminary ruling — Jurisdiction of the Court — Limits — Examination of the compatibility of national law with Union law — Not included — Providing the national court with full guidance on the interpretation of EU law — Included (Art. 267 TFEU) (see paras 19, 20)*
2. *Questions referred for a preliminary ruling — Jurisdiction of the national court — Need for and the relevance of the questions referred for a preliminary ruling (Art. 267 TFEU) (see paras 22-23)*
3. *Questions referred for a preliminary ruling — Admissibility — Need to provide the Court with sufficient information on the factual and legislative context (Statute of the Court of Justice, Art. 23; Rules of Procedure of the Court of Justice, Arts 53(2) and 94) (see paras 24-31)*
4. *Harmonisation of fiscal legislation — Common system of value added tax — Deduction of input tax — Limitations on the right to deduct — National legislation which does not grant taxable persons the right to deduct for the purchase of goods and services used for the requirements of exempt activities and which provides that that tax is calculated on the basis of a proportion corresponding to the ratio of the amount of the transactions in respect of which there is a right to deduct and the total amount of the transactions carried out over the course of the year — Lawfulness — Type of services — Medical-healthcare services — Irrelevant (Council Directive 77/388, Arts 17(2), (3) and (5), and 19) (see paras 35-41)*

Re:

Reference for a preliminary ruling — Commissione tributaria provinciale di Parma — Interpretation of 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 (OJ 1977 L 145, p. 1) — Deduction of input tax — Public or private healthcare establishments engaged in an exempt activity — National legislation excluding the deduction of tax relating to the purchase of goods or services used in the said exempt activities.

Operative part

Articles 17(2) and (5) and 19 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 must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which does not permit the deduction of input value added tax paid for the purchase of goods and services used for the requirements of exempt activities and which provides, consequently, that the right of a hybrid taxable person to deduct that tax is calculated on the basis of a proportion corresponding to the ratio of the amount of the transactions in respect of which there is a right to deduct and the total amount of the transactions carried out over the course of the year, including the exempt medical-healthcare services.