

**Judgment of the Court (Fourth Chamber) of 21 December 2011 —
Haltermgemeinschaft LBL v Hauptzollamt Düsseldorf**

(Case C-250/10)

(Directive 2003/96/EC — Taxation of energy products and electricity —
Article 14(1)(b) — Exemption of energy products used as fuel for air navigation —
Fuel provided by the owner of an aircraft used by the charterers of that aircraft for
their flights for purposes other than the provision of a service for consideration)

*Tax provisions — Harmonisation of laws — Taxation of energy products and
electricity — Exemption of energy products supplied for use as fuel for the purposes
of air navigation other than private tourism — Extent — Leasing or chartering of an
aircraft by an undertaking for its own commercial purposes other than the provision of
a service for consideration — Excluded (Council Directive 2003/96, Art. 14(1)(b)) (see
paras 25-26, operative part)*

Re:

Reference for a preliminary ruling — Finanzgericht Düsseldorf — Interpretation of
Article 14(1)(b) of Council Directive 2003/96/EC of 27 October 2003 restructuring
the Community framework for the taxation of energy products and electricity (OJ
2003 L 283, p. 51) — Extent of the exemption envisaged for energy products supplied
for use as fuel for the purpose of air navigation — Exemption of fuel provided by the

owner or lessor of an aircraft, not being an airline, used by the charterers of the aircraft for their flights for commercial purposes.

Operative part The Court:

Declares that Article 14(1)(b) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity must be interpreted as meaning that the tax exemption of energy products supplied for use as fuel for the purpose of air navigation other than private tourism provided for by that provision cannot apply in the case of a company, such as the applicant in the main proceedings, when it leases or hires out under a charter an aircraft belonging to it with fuel to undertakings whose air navigation operations are not directly used for the supply, by those undertakings, of air services for consideration.