

**Questions referred**

- 1) Should Article 168 of Directive 2006/112/EC <sup>(1)</sup> be interpreted as meaning that a holding company, in circumstances such as those in the main proceedings, is entitled to a full deduction of VAT on input services related to due diligence investigations before an envisaged, but not completed, sale of shares in a subsidiary to which the holding company supplies management and IT services that are subject to VAT?
- 2) Is the answer to the above question affected by the fact that the price for the VAT taxable management and IT services, which the holding company supplies for the purposes of its economic activity, is a fixed amount corresponding to the holding company's expenditure on employees' salaries, with the addition of a 'mark-up' of 10 %?
- 3) Irrespective of the answer to the foregoing questions, can a right of deduction exist if the consultancy costs at issue in the main proceedings are regarded as general costs, and if so, on what conditions?

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<sup>(1)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1)

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**Action brought on 21 August 2017 — European Commission v United Kingdom of Great Britain and Northern Ireland**

**(Case C-503/17)**

(2017/C 347/28)

*Language of the case: English*

**Parties**

*Applicant:* European Commission (represented by: F. Tomat, J. Tomkin, Agents)

*Defendant:* United Kingdom of Great Britain and Northern Ireland

**The applicant claims that the Court should:**

- declare that, by allowing the use of marked fuel for the purpose of fuelling private pleasure craft, the United Kingdom has breached its obligations under Directive 95/60/EC <sup>(1)</sup>;
- order the United Kingdom of Great Britain and Northern Ireland to pay the costs.

**Pleas in law and main arguments**

The Commission considers that permitting the sale of marked fuel for propelling private pleasure craft is fundamentally incompatible with the Directive 95/60/EC (the 'Fiscal Marking Directive'). The obligation to mark fuel that has been subject to a reduced rate of excise duty is intended specifically to ensure that those fuels are readily distinguishable from fuel in respect of which full duty has been paid. However, the effect of the national measure is that where marked fuel is found in a tank of a private pleasure craft that has been refuelled in the United Kingdom, it is not possible to determine by reference to the marking, whether or not the fuel used was subject to a full or discounted rate of excise duty.

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<sup>(1)</sup> Council Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene (OJ 1995, L 291, p. 46).