

Order of the Court (Seventh Chamber) of 9 July 2009 – Régie communale autonome du stade Luc Varenne v Belgian State

(Case C-483/08)

First subparagraph of Article 104(3) of the Rules of Procedure – Sixth VAT Directive – Article 10(1) and (2) – Recovery of tax improperly deducted – Starting point of the limitation period

Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Recovery of tax – Limitation period (Council Directive 77/388, Art. 10) (see paras 38-42, operative part.)

Re:

Reference for a preliminary ruling – Tribunal de Première Instance de Mons (Belgium) – Interpretation of Article 10 of the 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) – Concepts of ‘chargeable event’ and ‘chargeability of tax’ – Starting point of limitation period for an action for recovery of the tax – Date when invoice is issued or date when the tax return in which the taxable person claims his right to deduct tax is lodged?

Operative part

Article 10 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, as amended by Council Directive 2002/38/EC of 7 May 2002, must be interpreted as meaning that it does not preclude national legislation and administrative practice fixing the starting point of the limitation period for an action for recovery of improperly deducted value added tax as the day on which the taxable person lodged the VAT return in which he claimed for the first time a right to deduct.