

Order of the Court (Seventh Chamber) of 7 July 2010 – Gennaro Curia v Ministero dell’Economia e delle Finanze and Agenzia delle Entrate

(Case C-381/09)

Article 104(3), first subparagraph, of the Rules of Procedure – Sixth VAT Directive – Scope – VAT exemptions – Article 13B(d)(1) – Grant, negotiation and management of credit – Exorbitant lending activities – Activity unlawful under national law

1. *Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Substantive scope (Council Directive 77/388) (see paras 18-20, operative part)*
2. *Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Exemptions provided for in the Sixth Directive – Exemption for transactions involving the granting of credit (Council Directive 77/388, Art. 13B(d), para. 1) (see paras 18-20, operative part)*

Re:

Reference for a preliminary ruling – Interpretation of Article 13B(d)(3) 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) – Exemptions – Transactions consisting in the grant, negotiation and management of credit – Exorbitant lending activities, unlawful activity according to national law.

Operative part

Although exorbitant lending is a criminal offence under the national criminal code it falls, its illegality notwithstanding, within the scope 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. Article 13B(d)(1) of that directive must be interpreted as meaning that a Member State cannot impose value added tax on that activity when the corresponding lawful activity of money lending at rates of interest that are not excessive is exempt from VAT.