

Order of the Court (Sixth Chamber) of 1 June 2006 – V.O.F. Dressuurstal Jespers

(Case C-233/05)

Sixth VAT Directive– Supplies under a contract to make up work – Concept of ‘goods produced’ – Training of a horse – Whether or not tax is chargeable

1. *Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Supplies of goods – Supplies under a contract to make up work (Council Directive 77/388, Art. 5(5)(a)) (see paras 31-33, operative part 1)*
2. *Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Chargeable event and chargeability of tax (Council Directive 77/388, Art. 10(2)) (see paras 36-38, operative part. 2)*

Re:

Reference for a preliminary ruling – *Gerechtshof te's-Hertogenbosch* – Interpretation of Article 5(7)(a) of Directive 77/388/EEC: Sixth Council Directive 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) – Horse that has not been broken trained to make it suitable for a specific use – Horse trained for use as a riding horse capable, following training, of participating in competitions at a higher level – In both cases: have new goods been produced? – Importance of a change which can be measured objectively in the horse and the attainment or non-attainment of the objective – Tax paid under a procedure for periodic declarations

Operative part:

The Court declares that:

1.

Article 5(5)(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, as amended by Council Directive 94/76/EC of 22 December 1994 by the introduction of transitional measures applicable, in the context of the enlargement of the European Union on 1 January 1995, as regards value added tax, is to be interpreted as meaning that there is no supply under a contract to make up work when a horse is trained to make it suitable for use as a riding horse or trained so as to make it capable of participating in (dressage) competitions and that a horse, in such circumstances, cannot be regarded as falling within the category of ‘goods produced’;

2.

Whether or not value added tax is to be charged on amounts collected periodically as payment for the provision of services comprising the training of horses is to be determined according to the conditions laid down in Article 10(2) of the Sixth Directive.