

Judgment of the Court (First Chamber) of 19 March 2009 – Commission v Finland

(Case C-10/08)

Taxation in Finland of second-hand vehicles imported from other Member States – Compatibility of national legislation with the first paragraph of Article 90 EC, the Sixth VAT Directive and Directive 2006/112/EC

1. *Tax provisions – Internal taxation – System of taxation of imported second-hand cars (Art. 90, first para., EC) (see paras 26-32)*
2. *Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Deduction of input tax (Art. 90, first para., EC; Council Directives 77/388, Art. 17(1) and (2), and 2006/112, Arts 167 and 168) (see paras 34-37)*
3. *Tax provisions – Internal taxation – System of taxation of imported second-hand cars (Art. 90, first para., EC) (see paras 42-45)*

Re:

Failure of a Member State to fulfil obligations – Infringement of Article 90 EC and Article 17(1) and (2) 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), now Articles 167 and 168 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) – National legislation providing for value added tax on the tax on vehicles and a right to deduct the corresponding amount from output value added tax – Application of the same taxable value to vehicles under three months old and to new vehicles – Application of a level of depreciation of 0.8% per month to vehicles under six months old where there are no equivalent vehicles on the national market.

Operative part

The Court:

1.

Declares that, by allowing the tax referred to in Article 5 of Law No 1482/1994 on vehicle tax (autoverolaki (1482/1994)) of 29 December 1994 to be deducted from value added tax, pursuant to Article 102(1)(4) of Law No 1501/1993 on value added tax (arvonlisäverolaki (1501/1993)) of 30 December 1993, the Republic of Finland has failed to fulfil its obligations under the first paragraph of Article 90 EC and Article 17(1) and (2) 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, reproduced in Articles 167 and 168 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

2.

Declares that, by retaining, when taxing vehicles, the same taxable value for vehicles under three months old as for new vehicles, the Republic of Finland has failed to fulfil its obligations under the first paragraph of Article 90 EC.

3.

Orders the action to be dismissed as to the remainder.

4.

Orders the Republic of Finland to pay, apart from its own costs, three-quarters of the costs of the Commission of the European Communities.

5.

Orders the Commission of the European Communities to bear the remainder of its own costs.