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Request for a preliminary ruling from the tribunal administratif de Montreuil (France) lodged on 7 October 2019 — Bank of China Limited v Ministre de l'Action and des Comptes publics

(Case C-737/19)

(2019/C 413/39)

Language of the case: French

Referring court

Tribunal administratif de Montreuil

Parties to the main proceedings

Applicant: Bank of China Limited

Defendant: Ministre de l'Action and des Comptes publics

Questions referred

1.

Are the solutions adopted in the judgment of 24 January 2019, *Morgan Stanley & Co International plc v Ministre de l'Économie et des Finances* (C-165/17) applicable where a branch, on the one hand, carries out, in a Member State, transactions subject to VAT, and, on the other, supplies services for the benefit of its principal establishment and branches established in a third country?

2.

Where a branch established in a Member State claims a right to deduct based on the expenditure incurred by it in connection with the supply of services for the benefit of its principal establishment in a third-country, that is exports of financial and banking services, may the taxable person deduct value added tax pursuant to Article 169(a) or Article 169(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, p. 1)?

3.

If the first question is answered in the affirmative and the branch may claim a deduction pursuant to Article 169(a), under what conditions may banking transactions carried out by the principal establishment established in a third country be regarded as giving rise to a right to deduct if they had been carried out in the Member State the expenditure subject to value added tax is incurred? If the first question is answered in the affirmative and the branch may claim a deduction pursuant

to Article 169(c), under what conditions may the recipient of the services be regarded as being established outside the European Union where the branch is located in the European Union and forms part of one and the same legal entity as its principal establishment?