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Request for a preliminary ruling from the Tribunal d'arrondissement (Luxembourg) lodged on 21 November 2019 — EQ v Administration de l'Enregistrement, des Domaines et de la TVA

(Case C-846/19)

(2020/C 54/35)

Language of the case: French

Referring court

Tribunal d'arrondissement

Parties to the main proceedings

Applicant: EQ

Defendant: Administration de l'Enregistrement, des Domaines et de la TVA

Questions referred

1.

Is the concept of 'economic activity' within the meaning of the second subparagraph of Article 9(1) of Directive 2006/112/EC (1) to be interpreted as including or excluding supplies of services provided in the context of a triangular relationship in which the provider of the services is appointed to provide those services by an entity which is not the same person as the recipient of the supplies of services?

2.

Is the answer to the first question different according to whether the supplies of services are provided in the context of a role entrusted to the provider by an independent judicial authority?

3.

Is the answer to the first question different according to whether the remuneration of the service provider is borne by the recipient of the services or by the State, an entity of which appointed the service provider to provide those services?

4.

Is the concept of 'economic activity' within the meaning of the second subparagraph of Article 9(1)

of Directive 2006/112/EC to be interpreted as including or excluding supplies of services where the remuneration of the service provider is not a legal requirement and the amount of the remuneration, where it is awarded, (a) is based on a case-by-case assessment, (b) is always dependent on the financial position of the recipient of the services and (c) is calculated by reference to a fixed amount, a percentage of the income of the recipient of the services or the services performed?

5.

Is the concept of 'the supply of services and of goods closely linked to welfare and social security work' contained in Article 132(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax to be interpreted as including or excluding services performed in the context of a scheme for the protection of adults established by law and subject to the control of an independent judicial authority?

6.

Is the concept of 'bodies recognised ... as being devoted to social wellbeing' contained in Article 132(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax to be interpreted, in view of the recognition of the social character of the body, as laying down certain requirements vis-à-vis the way in which the service provider operates or as regards the not-for-profit or profit-making objective of the activity of the service provider, or more generally as restricting by other criteria or conditions the scope of the exemption provided for in Article 132(1)(g), or is the performance of services 'linked to welfare and social security work' alone sufficient to give the body at issue a social character?

7.

Is the concept of 'bodies recognised ... as being devoted to social wellbeing' contained in Article 132(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax to be interpreted as requiring a recognition process based upon a pre-defined procedure and pre-determined criteria, or is ad hoc recognition possible on a case-by-case basis, where appropriate by a judicial authority?

8.

Does the principle of legitimate expectations as interpreted by the case-law of the Court of Justice of the European Union allow the authority responsible for recovering VAT to require that a person liable to VAT pays the VAT on economic transactions relating to a period which had ended when the authority's decision to apply VAT was made after that authority has, for an extended time prior to that period, accepted VAT returns from that taxable person which do not include economic transactions of the same kind in its taxable transactions? Is that possibility on the part of the authority responsible for recovering VAT subject to certain conditions?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).