OPINION OF ADVOCATE GENERAL

Sharpston

delivered on 24 January 2008 (1)

Case C?484/06

Fiscale eenheid Koninklijke Ahold NV

v

Staatssecretaris van Financiën

(Rounding of amounts of VAT)

1. Whatever the rate of VAT charged on transactions, there will always be cases – unless the choice of possible rates and prices is artificially limited – in which the amount due comprises a fraction of the smallest currency unit used in payment. (2) In such cases, rounding will be necessary. Questions then arise as to whether the rounding should be up or down and as to the stage at which it should take place – for each item, each till receipt or invoice, each tax return, etc. Differing answers to those questions may entail significant differences in overall amounts of tax to be accounted for.

2. The present reference for a preliminary ruling from the Netherlands Hoge Raad (Supreme Court) asks (a) whether rounding is governed by national or Community law and, (b) if the latter, whether Member States must permit rounding down per item even where multiple transactions are included in the same invoice or VAT return. (3)

Relevant Community legislation

3. Article 2 of the First VAT Directive, (4) in force at the material time in the present case (October 2003), provided:

‘The principle of the common system of value added tax involves the application to goods and services of a general tax on consumption exactly proportional to the price of the goods and services, whatever the number of transactions which take place in the production and distribution process before the stage at which tax is charged.

On each transaction, value added tax, calculated on the price of the goods or services at the rate applicable to such goods or services, shall be chargeable after deduction of the amount of value added tax borne directly by the various cost components.

The common system of value added tax shall be applied up to and including the retail trade stage.'

4. More detailed provisions appear in the Sixth Directive. (5) Two concern rounding – but of percentages, not amounts. Article 19 (6) regulates the pro rata calculation of deductible input tax when inputs are used for both taxed and exempt outputs; according to Article 19(1), the *deductible* portion of input tax is to be expressed as a percentage rounded *up* to the nearest integer. And Article 25(3), (7) on the common flat-rate scheme for farmers, provides that the compensation percentage may be rounded *up or down* to the nearest half point.

5. The following provisions of the Sixth Directive have been cited as relevant to the issues in the present case.

6. Article 2(1) (8) states that the supply of goods for consideration, by a taxable person acting as such, is to be subject to VAT. Article 5(1) (9) defines a supply of goods as the transfer of the right to dispose of tangible property as owner.

7. Under Article 10(1) and (2), the chargeable event is the occurrence by virtue of which the legal conditions necessary for tax to become chargeable are fulfilled, namely when the tax authority becomes entitled to claim the tax from the person liable to pay. That occurs in principle when goods are delivered or services performed. (10)

8. Article 11A (11) lays down the general rule that the taxable amount is, essentially, the whole consideration obtained by the supplier for the supply, whether from the customer or from any other source.

9. Article 12(3)(a) requires Member States to fix a standard rate of VAT and authorises reduced rates for certain categories of supply. (12)

10. Article 17(1) and (2) (13) gives taxable persons the right to deduct from the output tax for which they must account the amount of VAT they have paid on input supplies used for the purposes of their taxable output transactions.

11. Article 22(3)(a) (14) requires taxable persons to ensure that an invoice is issued in respect of each taxable supply they make to another taxable person or to a non-taxable legal person (thus, by implication, there is no such requirement for supplies to final consumers who are natural persons (15)), and Article 22(3)(b) requires that invoice to include, among other information, the price exclusive of tax and the relevant tax at each rate as well as any exemptions. (16) Article 22(5) (17) requires every taxable person to pay the net amount of VAT (that is to say, output tax minus input tax) when submitting the regular return. (18)

12. The Commission also draws attention to certain provisions of Directive 98/6/EC. (19) In particular, Article 2(a) of that directive defines 'selling price', in retail trade, as the final price for a unit or given quantity of a product, including VAT and all other taxes, and Article 3(1) requires the selling price to be indicated for all products concerned.

Relevant Netherlands legislation

13. VAT is governed in the Netherlands by the Wet op de omzetbelasting (Law on turnover tax) 1968 and by the Uitvoeringsbesluit omzetbelasting (Implementing decree on turnover tax) 1968. The standard rate of VAT is 19%, and there is also a reduced rate of 6%.

14. At the material time in the present case, there was no provision governing rounding of amounts due. With effect from 1 July 2004 a new Article 5a was added to the Uitvoeringsbesluit omzetbelasting:

‘In the calculation of the tax on the basis of the amount charged and the customs value … the amount of the tax liability shall be arithmetically rounded to whole cents. The arithmetic rounding shall be effected in such a way that, in the case of amounts in which the third decimal place is equal to or exceeds 5, the amount is rounded up and, where the third decimal place is less than 5, the amount is rounded down.’

15. The explanatory memorandum concerning that amendment stated that the problem of rounding had been discussed by the VAT Advisory Committee, (20) and that the Commission’s position was that, as the Directive did not contain any provisions on the matter, the Member States could regulate it at national level in accordance with the principle of subsidiarity.

16. The explanatory memorandum also stated that the method prescribed was confined to the requirement of arithmetic rounding to whole cents, but that the tax could be calculated and rounded per supply of goods or per service provided, or the rounding could be applied to the total amount involved in a number of supplies.

17. Article 38 of the Wet op de omzetbelasting requires traders to offer goods or services at a VAT-inclusive price, except where the customer is a taxable person or a public body.

Background and procedure

18. Koninklijke Ahold NV (‘Ahold’) operates supermarkets in the Netherlands. As a retailer, it is required to offer items for sale at VAT-inclusive prices.

19. In October 2003 it calculated and declared the output VAT in respect of sales in all its supermarkets on the basis of the total amount per till receipt or ‘shopping basket’. It split the total VAT-inclusive amount shown on each receipt into three subtotals for items (a) at the standard rate, (b) at the reduced rate and (c) on which it did not have to account for VAT, which was prepaid under a special scheme. It multiplied the first two subtotals by 19/119 and 6/106 respectively, to obtain the amount of VAT included in the price. (21) Each of those amounts was then rounded arithmetically (up or down) to whole cents. The totals thus determined were declared as output tax and used to calculate the amount of VAT due (output tax minus input tax).

20. However, at two supermarkets, it made in addition, for its own purposes, a different calculation on the basis that (a) the amount of VAT should be determined not for each till receipt but for each item sold and (b) any necessary rounding should always be *down* to the nearest whole cent. Ahold thus calculated that, in respect of the two stores and the period at issue, it should have been liable for EUR 1 414 less than it actually declared and paid.

21. Ahold's challenge to the refusal to reimburse that sum has now reached the Hoge Raad. It argues that any method of rounding which leads to an amount of tax due being higher, by however little, than the amount reached by strict application of the appropriate VAT rate is inconsistent with Community law.

22. The Hoge Raad asks for a ruling on the following questions:

'(1) Is the rounding of VAT amounts governed solely by national law, or – particularly in view of [Articles 11A and 22(3)(b) and (5) of the Sixth Directive] – is it a matter for Community law?

(2) If the latter is the case, does it follow from the aforementioned Directive provisions that the Member States are required to permit rounding down per article, even if different transactions are included in one invoice and/or one tax return?'

23. Written observations have been submitted by Ahold, by the Greek, Netherlands, Polish and United Kingdom Governments and by the Commission, all of whom except the Polish Government were represented at the hearing.

Assessment

First question – governing law

24. It is clear that no provision in any of the Community VAT directives explicitly regulates the rounding of VAT amounts. Although Articles 11A and 22(3)(b), to which the Hoge Raad refers, are relevant to the determination of VAT amounts, they fall far short of the degree of precision which would be required to draw any specific conclusion as to rounding of those amounts. That being so, and since the issue of rounding is inescapable, the necessary detailed regulation must be a matter for national law. (22)

25. That conclusion is supported, moreover, as several Member States have pointed out, by the Treaty provisions on harmonisation of turnover taxes (Article 93 EC) and directives (Article 249 EC, third paragraph).

26. It is however equally clear that, in an area covered by a harmonising directive, Member States may not adopt measures which run counter to, or are inconsistent with, the rules or principles laid down in that directive, or any higher rules or principles applicable in Community law. (23)

27. In other words, the issue of rounding is not solely a matter for national or Community law; it falls to be regulated in detail by national law within the limits required by Community law.

Second question – rounding down per item

28. In that light, the second question is essentially whether a national rule which allows traders to round VAT down to the nearest cent on each item sold is required by, consistent with or incompatible with Community VAT law, in particular the Sixth Directive.

29. In my view, such a rule is incompatible with the principles governing VAT, for the reasons given below. Although the issue has two facets – rounding down and rounding per item – the two

are closely interlocked and I shall consider them together.

30. A preliminary point is that the issue arises before the Hoge Raad in the context of supplies to final consumers at VAT-inclusive retail prices. For the moment, I shall confine my analysis to that context – which, from the point of view of rounding, differs somewhat from supplies to other taxable persons and supplies at net prices to which VAT is added. (24)

31. Two requirements seem to me to be of paramount importance: that VAT must be exactly proportional to price and that it should be neutral vis-à-vis traders.

32. The first of those requirements is explicit in Article 2 of the First Directive. It means that the amount of VAT included in a retail price must represent, for any given rate of VAT, the exact proportion of the price which flows from the application of that rate. Where the rate is 19%, the exact proportion of tax in the retail price is 19/119 of that price. That remains an exact proportion, whether it can be expressed as a whole number of cents or not.

33. The second requirement flows both from that article and from the deduction system in Article 17(1) and (2) of the Sixth Directive. VAT must burden only the final consumer and not the various traders and service providers who have contributed to the final product or through whose hands it has passed. (25) Conversely, those operators must account to the tax authorities for all amounts of VAT paid by the final consumer, and may not retain any such amount for their own profit.

34. For a final consumer, who bears the burden of VAT but neither pays it separately nor deducts it at a later stage, it is unnecessary to fix the amount of tax included in a retail price as a whole number of cents. He may legitimately wish to be informed of the amount as well as the percentage, but for that purpose an approximate indication to the nearest cent is sufficient. Such an indication on a till receipt, rather than on a VAT invoice issued in accordance with Article 22(3) of the Sixth Directive, need not bind the retailer or the tax authority in any regard.

35. It is, by contrast, of practical importance to both of the latter that accurate figures be used in the calculations determining amounts due.

36. In accordance with Article 22(4) and (5) of the Sixth Directive, the amount of output tax must be declared by the taxable person in his regular return, where it will serve as an element in the calculation of the net tax which he must pay when submitting the return.

37. Any increase in the amount declared (the result of rounding up) means an increase in the net tax to be paid to the tax authority, and any decrease (the result of rounding down) means a decrease in that net tax. (26)

38. Thus, although the exact proportion of tax included in each retail price and paid by the consumer (19/119 of that price, in our example) does not vary, rounding the amount up to the nearest cent in the regular return would oblige the retailer to pay out of his profit a fraction of a cent more than is actually due, and rounding down would allow him to retain a fraction of a cent as additional profit.

39. It might be objected that a fraction of a cent is a tiny amount, and not such as to compromise seriously the integrity of the VAT system. However, where a fraction of a cent is multiplied by the number of items sold in a given tax period, the impact can be considerable.

40. Ahold’s calculation indicates that, for two of its stores for one month, the difference would have been about EUR 1 400. According to its websites, Ahold operates over 2 000 retail outlets of

varying sizes in the Netherlands alone. In that light, the United Kingdom Government's rough estimate that, 'if the four largest supermarket chains making supplies in the United Kingdom were to be permitted to operate rounding down per article, without any change of prices paid by customers, it would lead to a rounding down of the VAT accounted for and paid by those supermarket chains of well in excess of GBP 70 million per annum (EUR 100 million)', seems plausible. (27)

41. There is no reason to suppose that rounding up would lead to any less distortion than rounding down, but the distortion could be greater in Member States where the smallest currency unit used is larger than the cent.

42. Systematic rounding down or rounding up of the amount of VAT due on each item sold would thus lead to significant overall divergence from a result fully consistent with the principles of exact proportionality and neutrality of VAT. (28) With rounding down, in the aggregate, significant sums of VAT would be paid by customers and retained by retailers rather than being handed over, as due, to the tax authorities; with rounding up, similar amounts would be collected by the authorities from retailers, although not due and not paid by customers.

43. Consequently, Community VAT law cannot permit – let alone require – systematic rounding down (or up) of the VAT on each item sold by retailers when accounting for tax.

44. That conclusion answers the Hoge Raad's second question.

45. However, it may be helpful to consider what types of solution may be acceptable, bearing in mind that the situation of immediate interest concerns retail sales to final consumers at VAT-inclusive prices.

46. At least two types of approach would appear suitable in order to reduce or minimise, if not completely eliminate, the distortion I have highlighted above. They could be applied independently or in combination.

47. First, as all the Member State Governments submitting observations have pointed out, the common arithmetic method of rounding, in which any fraction of a cent below 0.5 is rounded down and any fraction of 0.5 and above is rounded up, both to the nearest cent, is likely to reduce the distortion in question, in so far as sums rounded down will tend to cancel out the sums rounded up. (29)

48. Such an approach need not affect the amount of VAT included in the price paid by each consumer for each item, which, at a rate of 19%, remains at 19/119 of the retail price. (30) It is, rather, a practical means of achieving an approximation of the total of those individual amounts for which each retailer must account to the tax authority in his regular return. A possibly greater degree of accuracy could be achieved by calculating the amount of VAT in the price of each item to, say, the eighth or tenth decimal place and totalling all the amounts thus calculated before rounding to the nearest cent, but that refinement seems unnecessarily elaborate (and burdensome for the smaller trader).

49. Second, following on from the last consideration, no rounding need take place at all until an actual *payment* of VAT has to be made, separate from any indication of VAT-inclusive prices. That stage is not reached until the amount due with each regular return in accordance with Article 22(5) of the Sixth Directive is calculated. Until then, retailers' accounts need state only VAT-inclusive prices for each applicable rate of tax; the amount of tax included in those prices can simply be recorded as 19/119, or 6/106 or whatever the applicable fraction is (the 'exact proportion' required by Article 2 of the First Directive). If rounding is confined to the final stage, the result is more

accurate and the burden of calculation is, moreover, reduced.

50. If the effect of rounding is thus limited to a fraction of a cent for each retailer for each rate of tax in each regular return, there will be no serious distortion of the total amount of tax collected compared with the total amount paid by consumers, and the distortion of neutrality cannot exceed a few cents per retailer.

51. Moreover, if rounding is deferred to the latest possible stage, systematic rounding down will not affect the integrity of the system to more than a truly negligible extent. The Court specified in *Elida Gibbs* that, in the final reckoning, the amount benefiting the tax authority may not exceed the tax paid by the final consumer. (31) If that dictum is to be followed strictly, systematic rounding down at the stage of the regular return would appear to be the solution which most closely respects the rules and principles to be observed.

52. I should like to add just one final remark here. Retailers must, by virtue of Directive 98/6, indicate VAT-inclusive selling prices. As was discussed at the hearing, they fix those prices in response to market considerations: their desired profit margin, the price the customer is willing to pay and the price charged by competitors. It is clear that rounding of VAT amounts can affect those considerations, particularly where low-price, high-turnover items are concerned. However, VAT is intended to be neutral vis-à-vis traders, and VAT calculations should not be allowed to influence commercial decisions of that kind. In that regard, it is particularly important to bear in mind that large supermarket chains have a much greater ability to take such calculations into account than do small traders, so that any possibility of rounding VAT on individual items may distort competition in favour of the former to the detriment of the latter.

53. In summary: (i) where amounts have to be totalled, arithmetic rounding will lead to less distortion than systematic rounding up or down (and rounding to even will reduce the distortion still further); (ii) distortion can be more effectively minimised by calculating amounts due only after totalling individual VAT-inclusive amounts for each tax period; (iii) at that stage, in order to avoid any excess payment to the tax authority, it is acceptable to round the amount due down to the nearest minimum unit of payment in all cases.

54. I would stress that the approaches I have outlined should not be viewed as necessarily the only possibilities open to Member States. Any solution which respects the relevant rules and principles – and in particular which does not involve the retailer either keeping or paying any difference between the exact proportion of VAT in the retail price and the amount accounted for to the tax authority – is acceptable.

VAT-exclusive prices and supplies to taxable persons

55. The case before the Hoge Raad concerns retail sales at VAT-inclusive prices. The considerations set out above relate to that specific context, and assume that sales are made to final consumers. Such consumers, as I have indicated, are entitled to know the proportion of VAT included in the price they have paid, and may be informed how much it amounts to, to the nearest cent. That information is commonly given on retailers' receipts, but need not be binding as between the trader and the tax authority.

56. However, where sales are made to taxable persons who will use the goods in question for the purposes of their taxable outputs, it is necessary to issue a VAT invoice in accordance with Article 22(3) of the Sixth Directive. That invoice must state both the price exclusive of tax and the amount of tax, each of which must thus be expressed as an amount capable of payment.

57. Such situations normally concern not retailers but traders whose business is essentially to supply other taxable persons. Unlike retail traders, they typically fix a price – in whole cents – exclusive of tax, then apply VAT at the appropriate rate to that price. In order to indicate the amount of VAT as a whole number of cents, it will again often be necessary to round the amount up or down.

58. However, in such a situation, the distortions I have outlined above either do not arise or have greatly mitigated effects.

59. As regards *individual* transactions, where the output tax charged by the supplier represents input tax which will subsequently be deducted by the customer, the amount neither burdens nor benefits either party and, because the output tax and the input tax cancel each other out by the operation of the deduction system, the amount collected on the supply to the final consumer at the end of the VAT chain is unaffected.

60. In the rarer cases where the supply is to a final consumer, rounding, although it has a slight effect on the amount paid by the customer and collected by the tax authority, does not affect the neutrality of the tax from the supplier's point of view. The amount invoiced is the amount which must be accounted for to the tax authority, and the fraction by which it is rounded does not affect the supplier's margin either way. (32)

61. It is true that the *cumulative* effect of rounding on such transactions may affect the overall amount of VAT revenue collected by the Member State, but that effect will be limited. Final consumers obtain their supplies overwhelmingly from retailers who are required to sell at VAT-inclusive prices. On the occasions when they do not, their purchases are likely to be of more substantial value, so that rounding by less than one cent will represent an appreciably smaller proportional difference. If rounding is arithmetic, the effect, both on overall VAT receipts and on individual customers, will be limited.

62. Where, in exceptional individual transactions, a taxable person purchases from a retailer items which he will use for his taxable outputs and the VAT on which he will wish to deduct, he will request an invoice stating the net price together with the amount of tax. In that event, the retailer must make a slight adjustment to his price in order to be able to show those amounts in whole cents. However, for the reasons I have explained, that adjustment will have no effect on either party or on the amount of VAT ultimately collected.

Conclusion

63. In the light of all the above considerations, I propose that the Court should answer the questions raised by the Hoge Raad as follows:

(1) The Community VAT directives do not regulate in detail the rounding of amounts of VAT. Such regulation is therefore a matter for national law, which must, however, comply in that regard with all the relevant rules and principles which flow from the directives.

(2) Those rules and principles do not permit retailers to round down the amount of VAT in the VAT-inclusive price of each item sold, in order to determine the amount of output tax which they

must declare in their regular returns.

1 – Original language: English.

2 – In the present case, which concerns amounts in euros, that smallest unit is the cent, to which I shall refer, but the name of the unit is irrelevant.

3 – Similar questions are raised in Case C-302/07 *Wetherspoon*, pending before the Court, in which it is asked also (c) whether the common arithmetic method of rounding up or down can be imposed, (d) at what stage rounding must take place and (e) what consequences flow from the principles of equal treatment and VAT neutrality when tax authorities allow some but not all traders to round down systematically.

4 – First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (OJ, English Special Edition 1967 I, p. 14). With effect from 1 January 2007, the First Directive was repealed and replaced by Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1), Article 1(2) of which contains the same provisions, with minor linguistic changes. The aim of Directive 2006/112 is to present all the applicable Community VAT provisions clearly and rationally in a recast structure and wording without, in principle, bringing about material changes in the existing legislation (see recital 3 in the preamble). References below to provisions of Directive 2006/112 do not therefore imply identity of wording with the equivalent provisions of the repealed directives.

5 – 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, amended on numerous occasions). The Sixth Directive was also repealed and replaced by Directive 2006/112 but, for the sake of readability, I shall refer to its provisions in the present tense. The substance – and to a large extent the wording – of those provisions remains in force in the equivalent provisions of Directive 2006/112.

6 – Article 175 of Directive 2006/112.

7 – Articles 295 to 305 of Directive 2006/112, at Article 298.

8 – Article 2(1)(a) of Directive 2006/112.

9 – Article 14(1) of Directive 2006/112.

10 – Articles 62, 63 and 66 of Directive 2006/112.

11 – Article 73 of Directive 2006/112.

12 – Articles 96 to 99 of Directive 2006/112.

13 – Articles 167 and 168 of Directive 2006/112.

14 – The applicable text of Article 22 was to be found, at the material time, in Article 28h of the Sixth Directive, as one of the ‘transitional provisions’; the equivalent of Article 22(3)(a) is now in Article 220 of Directive 2006/112.

15 – At least in domestic trade – the requirement extends to all distance sales taxed in the Member State of arrival and intra-Community supplies of goods, regardless of the type of customer.

16 – That version of Article 22(3)(b) had in fact been superseded at the material time by virtue of Council Directive 2001/115/EC of 20 December 2001 amending Directive 77/388/EEC with a view to simplifying, modernising and harmonising the conditions laid down for invoicing in respect of value added tax (OJ 2002 L 15, p. 24), which set out a more detailed list of requirements. Directive 2001/115 entered into force on 6 February 2002, but the deadline for its implementation by the Member States was 1 January 2004. It appears that the Netherlands transposition took effect on that date (Law of 18 December 2003, Staatsblad n° 530, 29 December 2003, p. 1). The Hoge Raad refers to 'the 10th indent of Article 22(3)(b) of the Sixth Directive (in the version applicable until 1 January 2004)' – but it is in fact only the version amended by Directive 2001/115 which contains a 10th indent, requiring the invoice to state the VAT amount payable. However, since the relevant point is that a VAT invoice must indicate the amount of VAT on the transaction, the confusion is immaterial. The equivalent provisions are now in Article 226 of Directive 2006/112.

17 – Article 206 of Directive 2006/112.

18 – Under Article 22(4)(a), the tax period is to be fixed by each Member State at one, two or three months, or any other period not exceeding one year, and the regular return is to be submitted by a deadline, again to be fixed by the Member State, of not more than two months from the end of the tax period (see now Article 252 of Directive 2006/112).

19 – Of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers (OJ 1998 L 80, p. 27).

20 – A forum set up under Article 29 of the Sixth Directive (Article 398 of Directive 2006/112) in which representatives of the Member States and the Commission discuss issues relating to the implementation of VAT.

21 – It is important to bear in mind that, in the case of retail prices, VAT must be calculated backwards from a determined VAT-inclusive price and not forwards from a notional VAT-exclusive price. A retail selling price including VAT at 19% comes to 119% of the net price excluding tax. The amount of VAT will thus be not 19/100 (19%) but 19/119 of the retail price. The same calculation applies, mutatis mutandis, for any other rate of VAT.

22 – For an analogous example, see Case C-35/05 *Reemtsma* [2007] ECR I-2425, paragraph 38, and the case-law cited.

23 – A point which has been made many times by the Court in the field of taxation: see, most recently, Case C-443/06 *Hollmann* [2007] ECR I-0000, paragraph 33, and the case-law cited there.

24 – For a consideration of the latter situations, see point 55 et seq. below.

25 – See, for example, Case C-435/05 *Investrand* [2007] ECR I-1315, paragraph 22, and the case-law cited there.

26 – Or, if input tax exceptionally exceeds output tax during the tax period in question, a decrease or increase, respectively, in the net amount to be reimbursed by the authority.

27 – At the hearing, counsel for the United Kingdom spoke of even greater figures, between GBP

200 million and 800 million.

28 – Systematic rounding at the till receipt or ‘shopping basket’ level must also have a significant, albeit lesser, effect, given the vast number of such receipts issued daily in any Member State.

29 – At the hearing, the United Kingdom cited a case in which arithmetic rounding per article would have led to a tax discrepancy of over GBP 17 000 in six months for a single trader. It is also true that the arithmetic method contains a slight but systematic upwards bias in that 0.5 of a cent is always rounded up, even though it is exactly half way between two whole cents. That problem could be mitigated by ‘banker’s rounding’ or ‘rounding to even’, in which, for example, when rounding to whole numbers, any figure ending in *exactly* .5, followed by nothing else, is rounded to the nearest whole even number. Thus, 3.5 becomes 4, as before, but 2.5 becomes 2.

30 – It may be indicated for the customer’s information in a rounded form, as I have suggested at point 34 above. Problems could arise, however, if the rounded amount were taken as the *actual* amount of VAT included in the price. For example, an item sold at EUR 0.28 with VAT at 19% contains EUR 0.0447 in VAT (19/119 of EUR 0.28). If that is rounded to EUR 0.04, the price exclusive of VAT is EUR 0.24. But 19% of EUR 0.24 is EUR 0.0456, which should be rounded to EUR 0.05, so that the VAT-inclusive price should have been EUR 0.29.

31 – Case C-317/94 [1996] ECR I-5339, paragraphs 18 to 24, especially at paragraph 24. Although English was the language of the case, it seems to me that the formulation in the English version – ‘the tax authorities may not *in any circumstances charge* an amount exceeding the tax paid by the final consumer’ – does not accurately reflect the French in which the judgment was originally drafted – ‘l’administration fiscale ne saurait *en définitive percevoir* un montant supérieur à celui payé par le consommateur final’ (my emphasis).

32 – It should be noted that this is not an option for true retail traders, who are obliged to set VAT-inclusive prices (see Directive 98/6, cited in point 12 above.)