

II. QUESTIONS RAISED ON THE INTERPRETATION OF THE SIXTH DIRECTIVE

a) Tax-free importation of tax stickers for motorway users sold on behalf of the Swiss Confederation

The Committee held **unanimously** that the importation of Swiss Confederation tax stickers for motorway users should not be taxed because these stickers did not correspond to a taxable transaction within the country of importation.

The Committee was **unanimously** in favour of exempting the commission on the sale of such stickers on the basis of Article 15(14) (or 15(10)) of the Sixth Directive.

b) Personal services supplied to ship passengers. Application of Article 9 of the Sixth Directive

The **great majority** considered that, for practical reasons, all services supplied on board ships sailing in internal waters and occasionally using international waters should be taxed, while the same services supplied on board ships sailing in international waters and using territorial waters for a short part of their journey should be exempt.

Two delegations reserved their position.

c) Application of Article 13(B)(d)(6) of the Sixth Directive to “special investment funds”

The Committee held **unanimously** that only the activities of undertakings with a contractual structure could give rise to a chargeable event for VAT purposes and hence to the application of Article 13(B)(d)(6).

d) Tax treatment of the hiring of railway wagons between railway undertakings in the Member States

The Committee was **almost unanimous** in considering that Article 15(13) should be applied to the hiring of goods wagons.

- e) Place of taxation of certain insurance loss adjustment services. Application of Article 9 of the Sixth Directive

The **great majority** of the Committee held that services supplied by independent experts to insurance companies in respect of immovable property, movable tangible property and intangible property were covered by Article 9(2)(a), Article 9(2)(c) and Article 9(2)(e) respectively.

- f) Taxable amount. Application of Article 11(A)(2)(b) of the Sixth Directive to incidental expenses

With regard to the commission charge by a carrier for collecting the payment for goods carried, **all** the delegations considered it impossible merely to extend the Court judgment in Case 126/78 to the context of Article 11(A)(2)(b) of the Sixth Directive, and that only examination of the terms of the contract concluded between consignor and carrier would reveal whether or not this commission was an incidental expense.

With regard to price supplements charged by vendors on credit sales, the **majority** of the delegations considered that if there were no real loan agreement, such price supplements must be included in the taxable amount for supplies of goods. The Committee agreed to continue its examination of this question.

- g) Scope of Article 26 of the Sixth Directive: special scheme for travel agents

The Committee held **unanimously** that Article 26 must apply where the following conditions obtain

- the agency must act in its own name and
- use at least one service supplied by another taxable person in the provision of travel facilities.

The Committee also held that the principle applied to travel agents of taxing the margin does not preclude determination of the margin for all transactions on the basis of the same formula during a specific period.

(The Committee further held that where a package includes an amount which represents the consideration for transactions for which the agency is to be taxed separately in another Member State, this amount should not be taken into account in determining the margin.)

h) Applicability of VAT to automobile associations

The **majority** of the delegations stated that subscriptions charged by motoring organisations must be taxed where they represent the consideration for individualisable services offered to their members. The Committee agreed, at this stage not to reach a definite conclusion.