

## **BRIDPORT – the 8 Questions Referred to the European Court by the Upper Tax Court**

### **Referring court**

Upper Tribunal (Tax and Chancery Chamber)

### **Parties to the main proceedings**

*Applicant:* The Bridport and West Dorset Golf Club Limited

*Defendant:* The Commissioners for Her Majesty's Revenue & Customs

### **Questions referred**

1. When applying the mandatory provisions of Article 134 to the provisions of Article 132(1)(m) of the Principal VAT Directive in the circumstances of a body accepted to be a non-profit-making organisation making supplies of the right to play golf, what supplies, if any constitute 'the transactions exempted'?
2. Is it legitimate to restrict exemption under Article 132(1)(m) by reference to whether the services of granting a right to play golf are made to a member of the non-profit-making organisation ?
3. Are the provisions of Article 134 to be interpreted as restricting exemption only to supplies which are 'closely linked' (in the sense of peripheral) to the 'transactions exempted' or to any supply falling within Article 132(1)(m)?
4. In circumstances where the non-profit-making organisation by reference to its publicly stated aims, regularly and consistently permits non-members to play golf, what is the interpretation to be placed on the 'basic purpose' of making the charge to non-members?
5. For the purposes of Article 134(b) to what must the 'additional income' be additional?
6. If income derived from providing access to sporting facilities to non-members is not to be treated as "additional income" for the purposes of Article 134(b), does Article 133(d) permit a Member State to exclude such income from exemption if it is likely to cause distortion of competition to the disadvantage of commercial enterprises subject to VAT, whilst not at the same time withdrawing the exemption from income derived from providing membership to members of the same non-profit-making organizations if the members' subscriptions are themselves likely to cause at least some distortion of competition?

7. In particular, is it necessary for any condition implemented under Article 133(d) to apply to all services supplied by the non-profit-making organisation otherwise falling within the exemption or is it permissible to allow a partial restriction i.e. permitting exemption for the supply of the right to play golf to members but not to non-members where both membership and non-membership supplies are in competition with commercial organisations?
  
8. What, if any, is the difference in requirement between Article 133(d) which requires a likely 'distortion of competition' and that in 134(b) which envisages only the existence of direct competition?

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<sup>1</sup> - Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax OJ L 347, p. 1