

ECJ rules in case C-183/13 Banco Mais (Directive 77/388/EEC (Sixth Council Directive))

(July 10, 2014)

On July 10, 2014, the European Court of Justice ruled in case C-183/13 Banco Mais. Banco Mais is a bank which carries out leasing activities in the automotive sector and other financial activities. The request has been made concerning the calculation rule to be used in order to determine the right of deduction in respect of value added tax (VAT) due or paid upon the acquisition of goods or services used to carry out both transactions in respect of which VAT is deductible and transactions in respect of which VAT is not deductible ('mixed use goods and services').

In the underlying case the ECJ ruled as follows: 'Point (c) of the third subparagraph of Article 17(5) of 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, must be interpreted as not precluding a Member State, in circumstances such as those in the main proceedings, from requiring a bank, which, inter alia, carries out leasing activities, to include in the numerator and denominator of the fraction used to determine a single deductible proportion for all of its mixed use goods and services just the part of the rental payments made by customers as part of their leasing agreements that corresponds to interest, where that use of the goods and services is primarily caused by the financing and management of those contracts, that being a matter for the national court to ascertain.'

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