Case C-136/99

Ministre du Budget and Ministre de l'Économie et des Finances

v

Société Monte Dei Paschi Di Siena

(Reference for a preliminary ruling
from the Conseil d'État (France))

(Turnover tax — Common system of value added tax —
Refund of the tax to taxable persons not established in the territory of the
country — Article 17 of the Sixth Directive 77/388/EEC and Articles 2 and 5
of the Eighth Directive 79/1072/EEC)

Opinion of Advocate General Saggio delivered on 13 April 2000 . . . . I-6111
Judgment of the Court (Fifth Chamber), 13 July 2000 . . . . I-6119

Summary of the Judgment

Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Refund of the tax to taxable persons not established in the territory of the country — Taxable person carrying out taxable transactions and exempt transactions in the Member State of establishment — Partial refund of tax — Method of calculation
(Council Directive 79/1072, Arts 2 and 5)

Articles 2 and 5 of the Eighth Directive 79/1072 on the harmonisation of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country must be interpreted as meaning that:

— they grant taxable persons established in a Member State where only part of their transactions are taxed a right to partial refund of the VAT which has been charged in a Member State where they are not established on goods or services used for the purposes of their transactions in the Member State of establishment;

— the amount of VAT refundable is calculated, first, by determining which transactions give rise to a right to deduction in the Member State of establishment and, second, by taking account solely of the transactions which would also give rise to a right of deduction in the Member State of refund if they were carried out there and of the expenses giving rise to a right to deduction in the latter State.

(see para. 32 and operative part)