

## **Direct taxation: The European Commission formally requests the Netherlands to end the higher levy of succession and gift duties on foreign country estates than on domestic country estates**

***The European Commission has formally requested the Netherlands to change tax rules which fully exempt country estates located in the Netherlands from succession and gift duties or halve these duties, while successions or gifts of country estates in other EEA States are taxed at 100% of their market value.***

Article 7, paragraph 1, of the Scenic Beauty Law 1928 (Natuurschoonwet 1928) provides that succession, transfer and gift duties are halved, in so far as they concern so called country estates. The value of country estates which are opened to the public is put at zero. On the basis of article 1, letter a, of the Scenic Beauty Law 1928 (Natuurschoonwet 1928) the country estate should be located in the Netherlands.

In analogy with the Court of Justice's judgement in *Jäger*, Case C-256/06 of 17 January 2008, the Commission considers this difference in treatment of country estates in the Netherlands and country estates elsewhere in the EEA contrary to the freedom of capital movement, as guaranteed by Articles 56 EC and 40 EEA.

Background:

The request takes the form of a reasoned opinion (the second step of the infringement procedure provided for by Article 258 of the Treaty on the Functioning of the EU (TFEU)). If there is no satisfactory reaction to the reasoned opinion within two months, the Commission may decide to refer the matter to the Court of Justice of the European Union.

The Commission's case reference number is 2008/2139.