

VAT: The Commission takes Ireland to the Court

The European Commission has decided to bring Ireland before the Court of Justice concerning the application of a reduced rate of 4.8% VAT to supplies of horses and greyhounds.

The VAT Directive allows Member States the possibility to continue to apply exemptions or reduced rates already applied at 1 January 1991, subject to the conditions that these are in accordance with Community law and have been adopted for clearly defined social reasons and for the benefit of the final consumer.

The Irish law provides for the application of a reduced rate of VAT to the supply of live greyhounds and live horses, to the hire of horses and to the sale of nomination services in studs.

The Commission considers that the application of a reduced rate of 4.8% to these supplies does not fulfil the condition that the reduced rate shall have been adopted for clearly defined social reasons. Furthermore, the Commission is of the opinion that the final consumer is not benefiting from the measure in all cases.

It should be understood that supplies which qualify under Annex III of the VAT Directive, such as foodstuffs for human and animal consumption as well as live animals, seeds, plants and ingredients normally intended for use in the preparation of foodstuffs (point 1) or as agricultural inputs (point 11) are not affected by these proceedings.

In October 2009 the Commission referred Austria, France, Germany and Luxembourg to the Court of Justice for similar national legislation (IP/09/1459). At an earlier stage the Commission had done the same in respect of the Netherlands (IP/08/1812). In the case against the Netherlands, C-41/09, Advocate General Bot shares the position of the Commission in his conclusions of 5 October 2010.

It can also be noted that Italy, the Czech Republic and, at last, Luxembourg have modified their legislation to conform to EU law.

Press releases on infringement proceedings in the field of taxation and the customs union can be consulted at:

http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/index_en.htm

The latest general information on infringement proceedings against Member States can be found at:

http://ec.europa.eu/community_law/eulaw/index_en.htm