

Direct taxes: The European Commission refers Spain to the Court over certain rules related to the appointment of fiscal representatives

The European Commission decided to refer Spain to the Court of Justice of the European Union over its tax provisions related to the appointment of fiscal representatives. The Commission considers that the rules which require certain non-resident taxpayers to appoint a fiscal representative in Spain result in a discriminatory treatment.

Under Spanish law, the following categories of taxpayers are obliged to appoint a resident tax representative in Spain: foreign pension funds located in Member States other than Spain and providing for occupational pension schemes in Spain; EU insurance companies operating in Spain under the freedom to provide services; non-resident companies operating in Spain through a permanent establishment; and non-resident natural persons subject to inheritance and gift tax in Spain.

The Commission considers that this requirement is not proportionate to the objective of preserving Spain's right to levy tax on the operations of these companies and funds and that it restricts the free provision of services as laid down in article 56 of the Treaty on the Functioning of the European Union.

Background

The Commission's case reference number is 2007/2446.

For press releases on infringement cases in the taxation or customs field see:

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

For the latest general information on infringement measures against Member States see:

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