

VAT: the Commission calls on Spain to amend its legislation on the reduced VAT rates applied to certain medical items.

The European Commission has given Spain two months to amend its legislation applying reduced VAT rates to medical equipment of general use, appliances used to alleviate physical disabilities of animals and medicinal substances used in the production of medicines. The Commission's request takes the form of a reasoned opinion (second step of the EU infringement proceedings). In the absence of a satisfactory response within two months, the Commission may refer Spain to the Court of Justice.

The VAT Directive (Annex III, Category 4) allows Member States the application of a reduced VAT rate for medical equipment, aids and other appliances which meet two conditions, namely:

- that they are "normally intended to alleviate or treat disability", and
- that they are "for the exclusive personal use of the disabled".

Against this background, the Spanish application of a reduced VAT rate to medical equipment for general use and also to appliances for the use of disabled animals runs contrary to EU Law.

Furthermore, the VAT Directive (Annex III, Category 3) allows for the application of a reduced rate to pharmaceutical products "normally used" for health care, prevention of illnesses and as treatment for medical and veterinary purposes. Therefore, only actual medicaments are covered by the reduced rate, which renders contrary to EU Law the reduced rates applied in Spain to substances used for the production of medicaments.

Reduced rates constitute exceptions to the general principle according to which the standard rate applies, and therefore the EU legislation on this issue must be strictly interpreted. Further to this the Council (which is the EU legislator as far as VAT matters are concerned), in the framework of the discussions which have led to the recent Directive 2009/47/EC on VAT rates, has confirmed the strict scope of the categories contained in Annex III. The Spanish rules deviate from this strict approach and are thus in breach of EU Law.

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

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

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

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