



# European Tax Report

## Confédération Fiscale Européenne (CFE)

12 September 2006 - Issue 10/2006

### News - Indirect Taxes

#### VAT

### Council adopts Directive amending Sixth VAT Directive regarding simplification, evasion and avoidance

On 24 July 2006 the Council adopted Directive 2006/69/EC which amends Directive 77/388/EEC as regards certain measures to simplify the procedure for charging value add tax. In addition this amendment assists in countering tax evasion or avoidance, and repealing certain decisions granting derogations.

#### Certain derogations covering same problems

Under varying terms to individual Member States certain derogations covering similar problems were granted by the Council pursuant Article 27(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 in order to combat tax evasion or avoidance and to simplify the procedure for charging value added tax. The purpose of the Directive 2006/69/EC is to make those solutions available to all Member States through incorporation into that directive.

#### New measures

The new measures aim at ensuring clarification of VAT law particular in respect to:

- the place of supply, and therefore taxation, of various types of goods and services
- exemption from VAT of certain goods and services

- the taxable amount for VAT purposes;
- the definition of electronically supplied services
- accounting details for simplified arrangements for the application of VAT by non-EU suppliers of electronic services.

The Member States should have implemented the Directive by 1 January 2008 the latest.

**Further information is available under the following links (click to open):**

Council Directive 2006/69/EC amending Directive 77/388/EEC to simplify the procedure for charging value added tax

languages: [EN](#) [DE](#) [FR](#)

on interest payments.

#### Singapore and Hong Kong

As a first step Singapore and Hong Kong are possible targets. „Hong Kong and Singapore are important financial centers and we have to find solutions to avoid tax evasion and create a level playing field among offshore centers,“ Maria Assimakopoulou, spokeswoman for Lazlo Kovacz, underlines.

#### Unanimous Decision by the Council

On Monday the 25 tax experts from the member states considered the plan to extend the directive, but with no result. The negotiating mandate has to be granted unanimous by the 25 Minister of Finances. But there are some critical voices regarding the effect of the EU Saving Directive. Switzerland for example has transferred only 15 million Euro interest payments to Germany although the actual amount is much higher. This might be because the directive does not include interest payments of equity fund.

All in all banking experts question whether Singapore would agree on implementing the EU savings directive, because the financial location might become less attractive.

### News - Direct Taxes

#### PERSONAL TAXES

### EU Commission aims tax havens in Asia

The European Commission wants to fight tax evasion in Asia. Thus the EU savings directive 2003/48/EC shall be extended to Asian metropolis. The directive was implemented in July 2005 within the EU countries as well as Switzerland, Liechtenstein, Andorra, Monaco and San Marino to establish an automatically information system

Further information is available under the following links (click to open):

General Information DG General Taxation and Customs Union on taxation of savings income

languages: [EN](#) [DE](#) [FR](#)

Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments.

languages: [EN](#) [DE](#) [FR](#)

## OTHER TAXES

### Proposal from the EU Commission: Car Taxes on CO2 pollution

A proposal of the European Commission aims to introduce an EU-wide car tax based on CO2 emissions won backing from the European Parliament. The idea is to prevent double taxation for EU citizens moving around Europe and creating level tax conditions for automakers on the European car market.

#### Carindustry supports the proposal

However the proposal is very likely to meet with a veto from member states opposed to greater EU cooperation on tax issues. In general European carmakers support the proposal. „The vote today (in the European Parliament) is good news for citizens, the automotive industry and the environment. CECRA and automotive retailers have been pushing such a directive to be adopted for years," affirms the European Council for Motor Trades and Repairs (CECRA) President Jürgen Creuzig.

## Next Steps

The proposal could be forwarded to the Council of Ministers for approval. But as the member states will probably reject it, it will may not be put on the agenda.

Further information is available under the following links (click to open):

Press release from the European Commission  
Passenger car taxes: Commission proposes to improve functioning of the Internal Market and promote sustainability

languages: [EN](#) [DE](#) [FR](#)

Opinion of the European Parliament / MEP say tax cars on pollution, not on registration

languages: [EN](#) [DE](#) [FR](#)

General Information DG Taxation and Customs Union  
Passenger Car Taxation

languages: [EN](#) [DE](#) [FR](#)

## News - ECJ

### Non-deductibility of tax advisory fee for non-resident taxpayers under German rules discriminatory

On 6 July 2006 the European Court of Justice (ECJ) gave its decision in the case of Robert Hans Conijn versus Finanzamt Hamburg-Nord (C-346/04). The question was whether a non-resident taxpayer may deduct his tax advisors fees like a resident taxpayer.

## German income tax law

The German Income Tax Law distinguishes between unrestricted income tax liability, residing in Germany, and persons with restricted tax liability, who do not reside in Germany but are taxable there on income received in that State. Mr. Conijn deducted from his taxable income the sum of DEM 1 046, which he had incurred in obtaining tax advice for the purpose of preparing his tax return in Germany. The Finanzamt, relying on the German Income Tax Law EstG 1997, refused this deduction on that expenditure.

### ECJ Decision

The ECJ pointed out that Article 52 of the EC Treaty (now, after amendment, Article 43 EC) precludes national legislation which does not allow a person with restricted tax liability to deduct from his taxable income, as special expenditure, the costs incurred by him in obtaining tax advice for the purpose of preparing his tax return, in the same way as a person with unrestricted tax liability.

Further information is available under the following links (click to open):

Judgement of the Court (Third Chamber) / Case number: C-346/04

languages: [EN](#) [DE](#) [FR](#)

### Advocate General finds German rules limiting deduction of expenses discriminatory

Advocate General (AG) Philippe Léger of the European Court of Justice (ECJ) gave his opinion in the case of Centro Equestre da Lezíria

Grande Lada v. Bundesamt der Finanzen.

## Background

Centro Equestre is a company established under Portuguese law with its registered seat and central management in Portugal and no permanent establishment in Germany. 11 of the 14 shows were held in Germany, whereas Equestre claimed a refund including expenses such as personnel costs, depreciation of horses, equipment and tax advice. The company calculated 11/14 of the accounted costs as deductible, resulting in an overall loss of EUR 6,476.89. But the German tax administration and Lower Finance Court denied the deduction while arguing that the costs did not have a direct economic connection or the costs with the direct economic connection did not exceed 50%.

## Opinion of the General Advocate

Advocate General Léger underlined that the German rules treat residents and non-residents differently, although their situation is comparable. Thus a different treatment is a discrimination against the freedom to provide services.

## Tax scheme in the Azores dismissed by the ECJ

In 1999 the legislative body of the Azores Region adopted detailed rules for the adaption of the national tax system to regional particularities. In order to make the location more attractive for companies, the rules include a reduction of the rate of economic and corporation tax.

## Tax scheme entered into force without authorisation from to Commission

The changes in the tax law were notified late to the Commission

and were applied without authorisation. The EU Commission defined the reduction of taxes as „operating aid“ which do not apply to „inter-group services“ (economic activities of several companies who provide services in the same field). The EU Commission ordered Portugal to take the measures necessary to recover the aid granted from those undertakings.

But Portugal challenged the ECJ, particularly as regards the classification of the measures concerned as State aid.

## The ECJ Decision

The ECJ argued that:

1. in general the EC Treaty prohibits selective measures of State aid,
2. the Portuguese decision must have been taken by a regional or local authority which has a political and administrative status separate from the central government,
3. the undertakings in the region must not be offset by aid or subsidies from other regions or central government.

The ECJ finds that the Portuguese measures appear to be selecti-

**Further information is available under the following links (click to open):**

European Court of Justice  
Press Release  
The Court dismisses the action brought by Portugal

language: [EN](#) [DE](#) [FR](#)

## News - Other

## CEPS researchers analyse dynamics behind 'green' tax systems

The Center for European Policy Studies (CEPS) focuses in a new report on how well environmental taxation has worked in various EU member states. Moreover it is questioned under what conditions environmental taxation can serve as a suitable tool to address greenhouse gas emissions.

## Participation in TAXBEN since 2004

In the TAXBEN project (Tax/Benefit Systems and Growth Potential of the EU) the CEPS has participated since 2004. Environmental taxation is singled out by the project as one of five key areas where systems need to be reformed to help generate economic growth and jobs in the EU.

**Further information is available under the following links (click to open):**

CEPS: General Information on TAXBEN (Tax/Benefit Systems and growth potential of the EU)

language: [EN](#)

## Events

### November 2006

Seminar  
EU Financial Services: Recent Initiatives, Remaining Obstacles and Future Opportunities.  
16-17 November 2006  
Luxembourg  
phone: 0352/4262301  
fax: 0352/426237  
[www.eipa.nl](http://www.eipa.nl)

## Impressum

Confédération Fiscal Européene  
188A, AV. de Tervuren  
B-1150 Brussels

Editor: Stella Willborn

If you have any suggestions or questions, please feel free to contact the editor:

Stella Willborn  
brusselsoffice@cfe-eutax.org

### Disclaimer

The Confédération Fiscale Européenne (CFE) distributes this report to enhance public access to information about European policies in general. The CFE accepts no responsibility or liability whatsoever with regard to the material. The links will connect you to sites which are in no way controlled by the CFE, and CFE is not responsible for their content, or indeed for any further links which they may support. All rights reserved.