Downloaded from Blogs on 16.11.2026 11:59h

By PwC Deutschland | 03. Juli 2014

Duty on smuggled goods due from any holder

The ECJ has held that excise duty due on goods brought into the country illegally may be exacted from any subsequent acquirer as well as from the smuggler himself.

Downloaded from Blogs on 16.11.2026 11:59h

A criminal was convicted of taking unlawful possession of cigarettes smuggled into Germany from Poland. The Customs office responsible for collecting the excise duty sought to make him (and his own “customers”) liable for the amount. Their demand was based on a passage in the Tobacco Duty Act making any subsequent holder of dutiable goods liable for any duty previously evaded. The criminal responded with a contention that the Excise Duties Directive made only the actual evader liable for the duty if the evasion was of his making.

The ECJ has responded with a judgment to the effect that neither the directive in question, nor community law in general, preclude a national provision making any subsequent holder of dutiable goods liable for duty evaded on import. The directive does not explicitly address the point, although implicitly it does through the provision making any holder of goods intended for consumption in another member state liable for duty in that state as well as in the state in which they were – legally or not – released into free circulation. This provision must be interpreted as meaning that any holder of unfranked goods in any member state is liable for the duty thereon, regardless of how he acquired them.

The ECJ case reference is C-165/13 *Gross* judgment of July 3, 2014.

Schlagwörter

cigarettes, excise duty