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By PwC Deutschland | 27. Oktober 2021

ECJ: Swimming lessons not exempt from VAT

The European Court of Justice (ECJ) dealt with the question if the provision of swimming lessons would be VAT exempt under EU VAT guidelines. The ECJ held that swimming tuition provided by a private swimming school does not fall under the exemption rule as “school and university tuition” in Article 132 (1) (i) and (j) of the VAT Directive 2006/112.

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The request for a preliminary ruling came from the Federal Finance Court. A swimming school in the legal form of a civil-law partnership (“GbR”) provides, essentially for children, courses of different levels relating the basics and techniques of swimming.

The ECJ found that the term “school and university teaching” within the meaning of Art. 132 VAT Directive 2006/112 does not include the swimming lessons provided in the case of dispute. The ECJ pointed out that, while the swimming tuition provided by a private swimming school, such as that at issue in the main proceedings, is of undoubted importance and in the general interest, it nevertheless constitutes specialized tuition provided occasionally, and does not amount, in itself, to the transfer of knowledge and skills covering a wide and diversified set of subjects or to their furthering and development which is characteristic of school or university education.

The ECJ cited excerpts from its judgment of 14 March 2019, *A & G Fahrschul-Akademie*, C-449/17, and from its order of 7 October 2019, *Finanzamt Hamburg-Barmbek-Uhlenhorst*, C?47/19. Although the importance of the knowledge transferred in the context of driving (in the case: *A & G Fahrschul-Akakdemie*) and sailing tuition (in the case: *Finanzamt Hamburg-Barmbek-Uhlenhorst*) cannot be denied, in particular when dealing with emergency situations and, more generally, to ensure the safety and physical integrity of persons, the ECJ has nevertheless held that, in both judgments, such tuition does not fall under the concept of ‘school or university education’ within the meaning of Article 132(1)(i) and (j) of Directive 2006/112.

Source:

The ECJ case reference is **C-373/19** *Dubrovin & Tröger - Aquatics* judgment of 21 October 2021.

Schlagwörter

school and university tuition, swimming lessons