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By PwC Deutschland | 19 January 2011

Sale of opera tickets by travel agent not taxed as travel service

The ECJ has held that the sale of opera tickets by a travel agent in isolation is unconnected with a journey and therefore to be charged to VAT as a normal trading transaction.

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A Dresden travel agent offered multiple services, including the sale of opera tickets. Some of the tickets were sold together with hotel accommodation or transport, but others were sold as single items. In respect of the latter, the tax office demanded that the sales be charged to VAT in the normal way and refused to accept the travel agent's return reflecting taxation of these transactions under TOMS (tour operators' margin scheme – the margin taxation for travel agents).

The ECJ has now confirmed the position of the tax office. The travel agent was not acting as such when selling tickets in isolation, but as a ticket agent to whom TOMS did not apply. Rather, the precondition for TOMS was that the services be supplied in connection with a journey. The sale of opera tickets in isolation was independent of a journey and thus fell to taxation under the normal rules. This contrasts with the sale of hotel accommodation, which even in isolation was manifestly in connection with a journey. The court also added that the purpose of TOMS was to relieve travel agents of the burden of dealing with input tax from different countries. This was not relevant to isolated sales – another reason for applying the margin scheme restrictively.

The ECJ case reference is C-31/10 Minerva judgment of December 9, 2010.

Keywords

margin scheme, margin taxation, opera tickets, sale of opera tickets, travel services