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By PwC Deutschland | 22 June 2011

Golf club charges for instruction VAT-free

The Supreme Tax Court has held that the charges of a golf club for individual instruction by employees are free of VAT under a direct application of the Sixth Directive.

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The VAT Act exempts the charges of non-profit organisations for attendance at courses and lectures, provided the charges are mostly intended to defray the costs incurred by the provider. Charges for attending functions are also exempt. A tax office found that the charges of a golf club to members and guests for individual instruction on the green by employed pros fell into neither category and were therefore subject to standard rate VAT. The Supreme Tax Court has now agreed that individual instruction is not a function, but has explicitly reserved judgment on whether it could be exempt as a course or lecture. On the other hand, it has held that these exemption provisions as they stand are an incomplete transposition into national law of the Sixth Directive provisions (now the VAT Directive) exempting the provision of necessary facilities for sportspeople by non-profit organisations. Instruction by a qualified pro is necessary for the attainment of proficiency in golf and therefore for the enjoyment of the sport. The golf-club concerned had been recognised as a non-profit, public-interest organisation and could claim direct application of the VAT Directive, if there was a conflict with national law.

Supreme Tax Court judgment XI R 21/09 of March 2, 2011 published on June 22

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