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By PwC Deutschland | 15 November 2012

Houseboat at a permanent mooring can be immovable property

The ECJ has held that a permanently moored houseboat used as a restaurant can be let free of VAT as immovable property.

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The taxpayer owned a houseboat which had been moored at the same spot on the Rhine alongside the riverbank for many years. Its engine had long since been removed, it was held permanently in place by a complicated system of shackles, it was connected to dry land by a landing stage, a water main, and power and phone lines. Its moorings were assured by long term lease from the city authorities. The taxpayer let the boat as a restaurant to a contractor, free of VAT on the advice of her tax advisers, who saw the boat as effectively anchored to a single spot and therefore as immovable. Following an audit, the tax office demanded payment of the VAT for the past few years, claiming that the boat was a means of transport. The taxpayer sued her tax advisers for the VAT lost through their inappropriate advice; the advisers defended themselves with the contention that their advice had been a correct rendering of the (then) provisions of the Sixth Directive.

The ECJ has now held that the boat was an immovable property in the circumstances of the case. Accordingly, it could be let free of VAT. It was physically attached to the ground in a way that effectively immobilised it. It was connected to a range of utilities provided through fixed lines and mains and had its own postal address. It was used as a restaurant under a long-term lease. The restaurant was dependent on its favourable location – just outside Cologne, but with easy parking – so there was every reason not to move the boat, even if it had been physically possible to do so.

The ECJ case reference is C-532/11 *Leichenich*, judgment of November 15, 2012.

Keywords

boat, houseboat, immovable property