

By PwC Deutschland | 23 October 2014

Minicabs cannot claim reduced rate VAT for taxis

The Supreme Tax Court has held that minicabs cannot claim the same reduced rate of VAT as taxis, except for ambulance services under a common contract with a health fund.

The Supreme Tax Court has dealt in two cases with the argument of a minicab business (hiring a car with a driver for a specific journey) that its services were essentially similar to, and in direct competition with, those of taxi businesses and should accordingly rank for the same reduced rate of VAT for local journeys. The court referred the question to the ECJ and, following the ECJ's answer, has now passed judgment to the effect that the difference in VAT rate is justified by the perception of the average customer that there are significant differences in the service. The courts involved have mentioned variously the registration of taxi businesses and their obligations to accept every fare and to charge according to the set scale. They also mentioned the distinctive appearance of taxis and the prohibition on minicabs from accepting custom off the street. The minicab business argued that in practice there was very little real difference between the two types of business on all these points, although the Supreme Tax Court has now held the legal obligations on taxis to be decisive. The fact that market constraints effective force similar charging rates and conditions on all businesses was not generally significant, and the same applied to the argument that most journeys were pre-ordered anyway.

The Supreme Tax Court made – again following the ECJ – one exception, carrying the sick as an ambulance service on contract with a health fund. In the case at issue, the health fund had uniform set rates and contractual conditions for all carriers and otherwise made no distinction between taxis and minicabs in its terms of appointment. In this case, the court held, the two were in direct competition offering an indistinguishable service and should bear the same rate of VAT.

Supreme Tax Court judgments XI R 22/10 and XI R 39/10 (ambulance services) of July 2, 2014 published together on October 22

Keywords

Taxis, minicabs, reduced rate