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By PwC Deutschland | 07 February 2024

Commission calls on Germany to comply with EU VAT rules regarding private tuition services

The European Commission decided to send a reasoned opinion to Germany for not properly applying EU rules on exempting private tuition services from VAT as laid out in the VAT Directive and clarified by the Court of Justice of the European Union.

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The VAT Directive requires Member States to exempt from VAT private tuition covering school or university education. Member States may provide for further conditions only to ensure the correct and straightforward application of this exemption and to prevent tax evasion, avoidance, or abuse. They must exercise this discretion in such a way as to ensure that the taxpayer entitled to the VAT exemption can effectively benefit from it.

In Germany, private teachers must present a certificate for the VAT exemption to apply. The certificate is to be issued by the competent authority of the federal states ("Länder") and must certify that the tuition services are in preparation for a profession or for an examination to be taken before a legal person governed by public law. This does not comply with EU law as interpreted by the European Court of Justice (ECJ). For this reason, Germany is considered by the Commission as failing to fulfil its obligations under the VAT Directive.

Therefore, the Commission has decided to issue a reasoned opinion to Germany, which now has two months to respond and take the necessary measures. Otherwise, the Commission may refer the case to the ECJ.

Source: EU-Commission, press release of 7 February 2024.

Keywords

VAT Exemption, school and university tuition