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ECJ: VAT exemption for small consignments of non-commercial goods

In a request for a preliminary ruling from Poland the European Court of Justice commented on the VAT exemption for small consignments of goods of non-commercial nature from third countries and where the recipient is residing in a Member State other than the Member State of importation.

Background

The plaintiff provided transportation and customs clearance services for goods and asked the Polish tax authority whether the importation into Poland of certain non-commercial goods sent between private individuals would be exempt from VAT if the recipient of the consignment was not located in Poland. In the opinion of the Polish tax authority, the exemption could not be claimed in this case.

Article 1 of Directive 2006/79/EC, which – among others - is of importance here, states that „*Goods in small consignments of a non-commercial character sent from a third country by private persons to other private persons in a Member State shall be exempt on importation from turnover tax and excise duty*“.

Decision

The ECJ found that the pertinent EU Directives on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries must be interpreted **as precluding legislation of a Member State** which excludes from the exemption from VAT small non-commercial consignments sent from a third country by private persons to private persons residing in another Member State.

First, the ECJ notes that the Polish version of the relevant provision uses the words ‘Member State’ without further clarification. Furthermore, in the Spanish, Danish, German, English, French, Italian, Dutch, Romanian and Swedish language versions of that provision, in particular, those words are preceded by an indefinite article.

Since Article 1(1) of Directive 2006/79 does not refer to a specific Member State and does not specifically mention the Member State of importation, the wording of that provision tends to indicate that the exemption from VAT which it provides to be for consignments sent to **private persons in any of the Member States**.

It is also apparent from the preparatory stages (explanatory notes) for Directive 78/1035, that the EU legislature did not intend to make the application of the exemption from VAT of small consignments of a non-commercial character subject to a condition relating to a specific place of destination of the consignment.

The purpose of the exemption from VAT was to ease the arrangements applicable to small consignments of a non-commercial character from third countries between private parties since those consignments are essentially of an emotional character, have only a low value and have, in principle, already been subject to a tax in the country of dispatch.

It thus follows not only from a literal interpretation but also from a contextual and teleological interpretation that the exemption from VAT provided for in those provisions applies irrespective of whether the consignee of the consignment resides in the Member State of importation or in another Member State.

Note: Germany has implemented Directive 2006/79/EC in the Small Consignments Import Exemption Regulation (*Verordnung über die Einfuhrabgabenfreiheit von Waren in Sendungen von Privatpersonen an Privatpersonen - KF-VO*). A restriction to recipients in Germany cannot be derived from the official wording of the regulation.

Source:

ECJ judgment of 8 May 2025 C-405/24 - *L (Petits envois non commerciaux)*.

Keywords

VAT Exemption