

By PwC Deutschland | 02 September 2025

Services provided by a prevention and personal development coach may be exempt from VAT

In a most recent decision, the Supreme Tax Court held that the activity of a prevention and personal development coach may be exempt as a provision of children's or young people's education within the meaning of Article 132 paragraph 1 letter i of the VAT Directive. In the absence of a formal recognition procedure an institution with the same objective can in any case be assumed if the institution's entire entrepreneurial objective is aimed at educating children and young people.

Background

Article 132 (1) letter i of the VAT Directive dealing with exemptions for certain activities in the public interest provides that Member States shall exempt the „provision of children's or young people's education, school or university education, vocational training or retraining, including the supply of services and of goods closely related thereto, by bodies governed by public law having such as their aim or by other organizations recognized by the Member State concerned as having similar objects“.

The case of dispute dealt with the question of whether the plaintiff (a natural person) carried out VAT exempt transactions in 2010 in the course of his work as a prevention and personal development coach. Various types of courses were offered (children's exercise and movement program along with other sports and exercise services offered by a cooperation partner, prevention training courses in nursery, primary and secondary schools, personality training courses for women and for the elderly, education seminars for parents).

The tax office took the view that the plaintiff could not rely on the VAT Directive. This would only be possible if it had not been sufficiently implemented at national level or in absence of national VAT exemption provisions.

Decision

The services provided by the plaintiff are exempt from VAT under Article 132(1)(i) of the VAT Directive. The plaintiff's prevention classes serve the intellectual and moral development of children and contribute to the development of their willpower and character. Furthermore, the courses in question are intended to help children discover their own abilities and strengths. The children's self-confidence, self-esteem, and resilience are to be strengthened.

It should be noted, as was also more specifically mentioned by the ECJ, that it is apparent from the wording of Article 132(1)(i) that the exemption referred to in that provision is subject, in essence, to two cumulative conditions. **First**, regarding the nature of the service provided, it must concern the provision of children's or young people's education, school or university education, vocational training or retraining, or services 'closely related' to it. **Secondly**, as regards the supplier of the service, those services must be provided 'by bodies governed by public law ... or by other organizations recognized by the Member State concerned as having similar objects' (ECJ judgment of 28 April 2022 *Happy Education* **C-612/20**, para. 29).

As to the second precondition (the supplier of the service), the ECJ has held that, insofar as Article 132(1)(i) of Directive 2006/112 does not specify the conditions or procedures under which those similar objects may be recognized, it is, in principle, for the national law of each Member State to lay down the rules in accordance with which that recognition may be granted to such organizations. The Member States have a discretion in that respect.

In the absence of a formal national approval procedure or the establishment of other conditions for approval and procedural details, an institution with comparable objectives can meet the conditions if its overall business objectives are aimed at the education of children and young people. For that matter, the terms used in that respect ('other duly recognized establishments of a similar nature' and 'other organizations recognized as charitable by the Member State concerned') do not exclude from that exemption natural persons running a business (ECJ, judgment of 7 September 1999 **C-216/97** *Gregg*, para. 21).

Also, the tax office cannot rely on a lack of legal grounds for the following reasons. A Member State which has omitted to adopt the measures necessary for that purpose cannot rely on its own omission in order to refuse a taxpayer entitlement to an exemption which he or she may legitimately claim under the VAT Directive. The application of that limitation in that situation would, moreover, be liable to infringe the principle of fiscal neutrality, resulting in different treatment for VAT purposes of supplies depending on whether the entities which provide them are profit-making or not (ECJ, judgment of 10 September 2002 - C-141/00 *Kügler* and judgment of 15 April 2021 **C-846/19** *Administration de l'Enregistrement, des Domaines und de la TVA*, EQ, para. 75).

Source:

Supreme Tax Court decision of 30 April 2025 XI R 5/24- published on 28 August 2025.

Keywords

educational events, training seminars