

OVERVIEW OF THE RECENT DEVELOPMENTS ON PASSENGER CARS TAXATION?

The Government shall present, as announced, to the Parliament before the end of the current year, the draft proposal on the passenger cars taxation reform. This reform shall be based to give more weight to the circulation phase (at present the municipal tax on vehicles - IMV) and it shall embody a significant reinforcement of the environmental component, already introduced, timidly, in the past month of July.

While in Portugal the reform awaits, shortly for the consideration of the executive and legislative powers, the Community Justice has just intervened in the juridical-fiscal order of Denmark, Member-State of EC whose tax law incorporates one of the strongest taxes collected in the phase of the vehicle registration.

Thus, and in response to a harmful question put by a Danish Court, the Court of Justice of ECs (TJCE) uttered a sentence where it decided that the scope of the Danish registration tax does not include Value Added tax (VAT). It is the sentence of the First Section, of June 1, 2006, issued in the process C-98/05, entered in ECCJ on February 24, 2005.

The Community judge considers that, although, in certain cases, VAT liability is subsequent to the registration tax liability and that this tax is included in the amount invoiced by the distributor to

the purchaser, "that circumstance cannot hide the existence, among the respective chargeable events of the respective Registration Tax and of VAT, of a conceptual difference that turns the first tax autonomous of the second."

In spite of the existing differences between the calculation methods of the registration tax in Denmark and of the passenger cars tax (IA) in Portugal, the truth is that, in both cases, we are talking about taxes classified as "registration taxes" and it seems it was for this fact -the autonomy of the chargeable event of the registration tax relatively to the VAT- that the ECCJ declared invalid VAT's real scope on the Danish tax at stake.

From the domestic perspective, the present Community case law has, therefore, the virtue of raising the issue of the incompatibility of VAT's objective scope on passenger cars tax.

Let us see if, also in the Portuguese case, the Community judge won't be called to intervene. ■

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