



MEMORANDUM 09/28

TO : IFHA/FIAH
FROM : Maurits Bruggink
DATE : October 09, 2009
REF. EU action against reduced VAT for race horses

The European Commission, the EU's Executive, refers Austria, France, Germany and Luxembourg to the Court of Justice for applying a reduced VAT on the sale of race horses. A similar case concerning the Netherlands has already been brought before the Court (Case C-09/41).

A statement by the European Commission justifies its decision as follows. The European Union's VAT legislation contains only a limited list of supplies of goods and services which may be subject to reduced rates of VAT. Reduced rates constitute exceptions to the general principle that the standard rate applies, and the legislation must therefore be strictly interpreted. Reduced rates may not be applied to the supply of animals kept as pets nor to ponies and pet or race horses, since these are not intended for human or animal consumption. In addition, the concept of agricultural inputs, which refers to the delivery of goods used on agricultural holdings, does not apply to the delivery of pet or race horses.

The referral to the European Court of Justice is the last step of infringement procedures and follows a lengthy mediation between a Member State and the European Commission. If the European Commission believes that a Member State continues to breach EU law and does not change its law, it can as an ultimate resort ask the ECJ for a ruling.

The countries above apply the following rates to the sale of race horses: Netherlands 6%, Austria 10%, Germany 7%, Luxembourg 3% and France 2,1 or 5,5%.

A ruling by the ECJ can take years. Should the ruling be negative for the racing sector, it could call for a change in law with reduced tax burden for our activities.
