



KMLZ VAT NEWSLETTER

ECJ rules swimming pools and water parks are VAT-exempt

1. Background

In the case at hand, the complainant (a Czech town), operates a water park. The park's entrance ticket entitles visitors to use the swimming pool, the natural swimming pool and the water slides. The tax office rated the water park's services as VAT-exempt. The complainant, who was against this decision, demanded a VAT-deduction and, consequently, the case was eventually brought before the ECJ. The Czech Supreme Administrative Court wanted to know whether the chargeable visit of such water parks should be considered as a service which is directly connected to physical exercise within the meaning of Art. 132(1)(m) of the VAT Directive.

2. Decisions by the ECJ

The ECJ ruled that entrance fees for water parks are to be treated as services, which are directly connected to sports

Entrance tickets for open-air swimming pools VAT-exempt

By judgment of 21 February 2013, case C-18/12 – *Zambek* – the European Court of Justice (ECJ) ruled that entrance tickets for open-air swimming pools and water parks (aqua parks) are VAT-exempt. This judgment is of particular significance for the German legislature. It allows for more scope in the future and maybe even into the past.

and physical exercise within the meaning of Art. 132(1)(m) of the VAT Directive.

3. Effects on everyday life

According to the current German understanding, the operation of swimming pools is subject to VAT and the reduced VAT rate within the meaning of Sec. 12 para 2 no. 9 of the German VAT Act applies.

The ECJ's judgment of 21 February 2013 allows for more leeway for local and private swimming pool and water park operators who can now refer to the EU law which is more favorable for them, assuming it is profitable for them.

However, recourse to the European VAT exemption rule will, in reality, only succeed if a company is a non-profit organization – see Art. 132(1)(m) of the VAT Directive.