

VAT on services by betting agents ECJ decision



VAT Insight
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Case C-464/10: ECJ judgement on the VAT treatment of services provided by a commission agent acting in his own name but on behalf of a principal operating a business of taking bets

On 14 July 2011, the ECJ issued its judgement in the case *Etat Belge vs. Pierre Henfling, Raphael Davin and Koenraad Tanghe* in a case concerning *Tiercé Franco-Belge SA* (“TFB”), a company whose business involved taking bets, in particular on horse races. TFB used local agents which collected stakes, registered bets, issued betting slips and paid out winnings.

The ECJ was asked whether the services provided by the agents to TFB, for which they received a commission, fell within the scope of the exemption applicable to “betting, lotteries and other forms of gambling, subject to the conditions and limitations laid down by each Member State” (article 13B (f) of the Sixth VAT Directive, now article 135(1)(i) of Directive 2006/112).

The ECJ found that where the agent is acting in his own name but on behalf of the bet-taking business, the agent is to be regarded (in terms of article 6(4) of the Sixth VAT Directive, now article 28 of Directive 2006/112) for VAT purposes, as having received the services from the bet-taking business on whose behalf he acts and onward supplied those services to the client himself.

As a result, the ECJ held, on the basis of the specific nature of the relationship between the parties, where an economic operator (i.e. the agent) acts in his own name but on behalf of an undertaking carrying on a bet-taking business, in the collection of bets covered by the exemption from VAT under article 13B (f) of the Sixth VAT Directive (now article 135(1)(i) of Directive 2006/112), the bet-taking business is considered to provide that operator with a supply of bets coming under that exemption.

Should you require any further information on the above, or should you wish to explore how / whether the above judgement may impact your business, please do not hesitate to [contact us](#) or your usual Deloitte Malta contact.

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