

Life Sciences and Health Care Industry News

Classification under tariff headings 2106 (“food preparations”) or 3003 (“medicine”)

Recently, the European Court of Justice (‘Court’) has ruled a decision which is of importance for companies that have their business focus on “food supplements” as it gives a clarification on the differences between CN heading 2106 (“food preparations”) and CN heading 3003 (“medicine”).

Classification under tariff headings 2106 (“food preparations”) or 3003 (“medicine”)

The question in this case was if blends of amino acids, used for the preparation of food products for infants or young children with an allergy for cow’s milk protein, should be classified as “medicine” or as “products for human consumption”.

The Court concluded that abovementioned products should be classified under CN heading 2106 of the CN, because they had no clearly defined therapeutic or prophylactic characteristics.

The Court takes the following into account:

- If such products are not suitable to counter or remedy the allergy and are only used as a replacement product which replaces the protein that causes the allergy without preventing or solving the allergy, they cannot be considered as a product with its own therapeutic or prophylactic effect.
- If such products are not necessarily part of a medical treatment or the consumption of such products does not require additional supervision of a medical specialist, they are not destined for medical use.
- If such products are only manufactured for food supplements which belong to the daily diet of human beings or if such products only contain nutritious substances, they cannot be classified as ‘medicine’.

What does it mean for you?

This decision will allow companies to better assess which of their products will be classified under heading 2106 as a ‘food preparation’ by the customs authorities and to analyze the impact on Binding Tariff Information currently held or to be obtained.

Source: Case C-344/14 of the European Court of Justice



Should you have any questions, please do not hesitate to contact us:

Pieter Wessel

Partner, Tax
Tel: +40 21 2075 242

Mihai Petre

Senior Manager, Tax
Tel: +40 21 2075 344

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/ro/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Reff & Associates SCA is a law firm member of Bucharest Bar, independent in accordance with the Bar rules and represents Deloitte Legal in Romania. Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. Visit the global Deloitte Legal website <http://www.deloitte.com/deloittelegal> to see which services Deloitte Legal offers in a particular country.