

TaxAlert

April 2009

VAT refunds possible based on new ECJ decision

Our Tax Alert calls your attention to a special opportunity: a decision at the European Court of Justice on 23 April allows taxpayers to recover previously non-deducted VAT on past investments and purchases financed through state subsidies.

The decision of the European Court of Justice in case C-74/08 'PARAT' gives a clear possibility for the recovery of VAT. The decision asserted that the Hungarian VAT law between the country's EU accession and December 31st 2005 was not in line with the relevant community directive. The VAT law limited VAT deduction for purchases entirely for taxable activities, but partially financed through state subsidies. At that time, the law only allowed the VAT to be deducted for the unsubsidized portion of the purchase price. Furthermore, if a taxpayer received subsidies for operations, only a proportional VAT deduction was possible in general as well: deductible VAT was blocked by reference to the proportion of subsidies received against taxable revenues.

The limitations were lifted for purchases after January 1st 2006. Now the ECJ has ruled that even before 2006, taxpayers should have had full right of VAT deduction if they made purchases for fully taxable business purposes.

The tax procedure law allows a simplified claim to be submitted within 180 days after the ECJ decision being published. The claim for the previously not deducted VAT is handled in a special procedure, where the tax authority will refund the tax – following a review of the fact pattern, if necessary.

If you have any questions regarding the above, or if you are interested in the opportunity for VAT refunds, please do not hesitate to contact Balázs Földes (balazs.foldes@kpmg.hu, 887 7232) or your regular tax advisor at KPMG.

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