

Hungary: telecoms tax facing European Commission challenge

An article by the CMS CEE Tax Group

March 2011

Hungary: telecoms tax facing European Commission challenge

The European Commission has begun infringement proceedings against Hungary over its special tax on the telecoms sector.

The Commission is concerned that the tax is incompatible with EU telecoms rules, which require specific charges on telecoms operators to be directly related to covering the costs of regulating the telecoms sector.

The special tax was introduced in October 2010 for the retail commerce, telecoms and energy sectors. The scope and rate of the tax varies according to the sector and revenue: telecom operators pay between 0% and 6.5% of their gross revenues (excluding VAT).

Operators have already paid the tax for 2010, which is expected to generate annual revenues of c. €220 million for the Hungarian government.

The first step in the proceedings is for the Commission to send a letter of formal notice to the Government requesting information about the tax.

The Government has two months to reply to the letter. If its concerns are not allayed by the Government's reply (or if no reply is received), the Commission may issue a reasoned opinion requiring compliance with EU law.

In the case of persistent non-compliance, the Commission may refer the case to the ECJ, as it has done recently for similar telecoms taxes in France and Spain.

For further information on this tax analysis and thought, please contact:

Eszter Kálmán
Senior Associate – CMS Cameron McKenna LLP, Budapest
T +36 1 483 4800
E eszter.kalman@cms-cmck.com

Tamás Feher
Associate – CMS Cameron McKenna LLP, Budapest
T +36 1 483 4818
E tamas.feher@cms-cmck.com

The views and opinions expressed in this article are meant to stimulate thought and discussion. They relate to circumstances prevailing at the date of its original publication and may not have been updated to reflect subsequent developments. This CMS article does not purport to constitute legal or professional advice.

CMS Legal Services EEIG is a European Economic Interest Grouping that coordinates an organisation of independent member firms. CMS Legal Services EEIG provides no client services. Such services are solely provided by the member firms in their respective jurisdictions. In certain circumstances, CMS is used as a brand or business name of some or all of the member firms. CMS Legal Services EEIG and its member firms are legally distinct and separate entities. They do not have, and nothing contained herein shall be construed to place these entities in, the relationship of parents, subsidiaries, agents, partners or joint ventures. No member firm has any authority (actual, apparent, implied or otherwise) to bind CMS Legal Services EEIG or any other member firm in any manner whatsoever.

CMS member firms are: CMS Adonnino Ascoli & Cavasola Scamoni (Italy); CMS Albiñana & Suárez de Lezo S.L.P. (Spain); CMS Bureau Francis Lefebvre (France); CMS Cameron McKenna LLP (UK); CMS DeBacker (Belgium); CMS Derks Star Busmann (Netherlands); CMS von Erlach Henrici Ltd. (Switzerland); CMS Hasche Sigle (Germany) and CMS Reich-Rohrwig Hainz Rechtsanwälte GmbH (Austria).

CMS offices and associated offices: Amsterdam, Berlin, Brussels, London, Madrid, Paris, Rome, Vienna, Zurich, Aberdeen, Algiers, Antwerp, Beijing, Belgrade, Bratislava, Bristol, Bucharest, Budapest, Buenos Aires, Casablanca, Cologne, Dresden, Duesseldorf, Edinburgh, Frankfurt, Hamburg, Kyiv, Leipzig, Ljubljana, Luxembourg, Lyon, Marbella, Milan, Montevideo, Moscow, Munich, Prague, Rio de Janeiro, Sarajevo, Seville, Shanghai, Sofia, Strasbourg, Stuttgart, Tirana, Utrecht, Warsaw and Zagreb.

www.cmslegal.com