

EU Issues – State Aids and Treaty Freedoms

1. Introduction

The purpose of this paper is to provide an overview of court cases at EU level involving State Aids, Treaty Freedoms and Infringements in which Ireland has a particular interest.

2. State Aid Cases

Ireland v Commission of the European Communities Case T-50/06 – Aughinish Alumina Limerick – recovery of excise relief aid.

3. Infringements

Case – No 2005/4950 – Tax treatment of Investment Income from UK and other MS Investment Income

Case - No 2005/2430 – Donations to approved bodies

C-318/07 Hein Persche v Finanzamt Ludenscheid - Tax treatment on donations to charity

Case No. – 2004/4084 – VAT treatment of services provided by Public Bodies

Case No. 2006/2246 – VAT treatment of services received by Public Bodies from other Member States

Case No. 2006/4608 – VAT treatment of bad debts arising under hire purchase agreement involving finance companies

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Case No. 2007/0397 – Commission Directive 2006/84/EC adapting the Mutual Assistance for the Recovery of Claims Directive to take account of the accession of Bulgaria & Romania

Case No. 2007/0398 – Council Directive 2006/98/EC of 20 November 2006 adapting certain Directives in the field of taxation, by reason of the accession of Bulgaria & Romania

Case 2003/2105 – Pensions Taxation

Case No. 2007/2052 – Single Administrative Document

4. ECJ Cases

There are 8 current European Court of Justice (ECJ) cases on the tax side where Ireland has intervened/made observations to the European Court. Before intervening in a European Court of Justice Case, Government approval is required so Memoranda seeking leave to intervene in these cases have already been brought to Cabinet.

These cases break down as 2 direct tax cases and 6 indirect tax cases. The direct tax cases are:

C-446/04 – Franked Investment Income (FII) case.

C-427/05 - Porto Antico di Genova

The indirect tax cases are:

- C-277/05 Societe Thermale d'Eugenie
- C-62/06 Fazenda Publica (Alfandega de Setubal) v Z.F. Zefeser – Importacao e Exportacao de Produtos Alimentares, Ld.
- C-185/06 British Telecommunications:
- C-309/06 Marks & Spencer
- C-425-06 Part Service Srl (IT)
- C-288/07 Isle of Wight

Further information on the ECJ cases can be obtained at
<http://curia.europa.eu/en/content/juris/index.htm>

5. Conclusion

The Group may wish to discuss these court cases further.