

## 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.