

# ECJ Decides on Whether Municipality Providing Spa Facilities in Return For Spa Tax is Carrying On Economic Activity: *Gemeinde A* (Case C-344/22) (VAT)

13 July 2023

Report from IBFD Knowledge Centre

On 13 July 2023, the Court of Justice of the European Union (ECJ) gave its decision in *Gemeinde A v. Finanzamt* ([Case C-344/22](#)) based on a number of grounds.

"On those grounds, the Court (Tenth Chamber) hereby rules:

Article 2(1)(c) of [Council Directive 2006/112/EC](#) of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that the provision of spa facilities by a municipality does not constitute a 'supply of services for consideration', within the meaning of that provision, where, on the basis of municipal by-laws, that municipality imposes a spa tax of a certain amount per day's stay on visitors staying in the municipality, when the obligation to pay that tax is linked not to the use of those facilities but to the stay in the municipal territory and those facilities are freely and gratuitously accessible to everyone."

For a previous TNS regarding the case, see [Germany-1, News 17 October 2022](#).

A more substantial report containing details of the ECJ's decision will be published in the ECJ Case Law collection in due course.