

ECJ Decides on Possible Unequal Tax Treatment of Vehicles Registered and Sold in Portugal and Second-hand Vehicles From Other EU Member States: *Autoridade Tributária e Aduaneira (Taxe sur les véhicules d'occasion importés)* (Case C-349/22) (Excise)

16 November 2023

Report from IBFD Knowledge Centre

On 16 November 2023, the Court of Justice of the European Union (ECJ) gave its decision in *NM v. Autoridade Tributária e Aduaneira* (Case C-349/22) based on a number of grounds.

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

Article 110 [TFEU](#) must be interpreted as precluding, on the date of release for consumption in a Member State of a vehicle that was registered for the first time in another Member State, a vehicle tax from being calculated in accordance with the rules applicable on that date, when an earlier version of the legislation relating to that tax, which would lead to the application of a lower tax and from which similar vehicles with the same relevant characteristics as that vehicle, but which were registered for the first time in the first Member State, were able to benefit, was in force when the vehicle was first registered, if and to the extent that the amount of tax levied on that imported vehicle exceeds the amount of the residual value of the tax incorporated in the value of similar domestic vehicles on the domestic market for second-hand vehicles."

For a previous TNS regarding the case, see [ECJ Preliminary Ruling Request \(Excise\): Autoridade Tributária e Aduaneira \(Case C-349/22\) – Tribunal Arbitral Tributário Submits Referral on Possible Unequal Tax Treatment of Vehicles Registered and Sold in Portugal and Second-hand Vehicles From Other EU Member States \(19 September 2022\)](#).

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

