

# ECJ Decides That 10% Inheritance Tax Exemption for Real Property Situated in the EU/EEA and Rented Out for Residential Purposes Is Not Compatible With EU Law: *BA (Successions - Politique sociale de logement dans l'Union)* (Case C-670/21) (Direct Tax)

12 October 2023

Report from IBFD Knowledge Centre

On 12 October 2023, the Court of Justice of the European Union (ECJ) gave its decision in *BA v. Finanzamt X* ([Case C-670/21](#)) based on a number of grounds.

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

Articles 63 to 65 [TFEU](#) must be interpreted as precluding legislation of a Member State which provides that, for the purposes of calculating inheritance tax, developed immovable property forming part of personal assets which is located in a non-Member State other than a State which is party to the [Agreement on the European Economic Area](#) of 2 May 1992 and is let for residential purposes is assessed at its full market value, whereas property of the same nature which is located within the national territory, in another Member State or in a State which is party to the Agreement on the European Economic Area is assessed, for the purposes of that calculation, at 90% of its market value."

For a previous TNS regarding the case, see [European Union-1, News 24 February 2023](#).

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

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