

ECJ Advocate General Opines on Application of VAT Reduced Rate to Repair and Renovation Work on Private Dwellings: *HPA - Construções* (Case C-433/22) (VAT)

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On 7 September 2023, Advocate General Kokott of the Court of Justice of the European Union (ECJ) gave her opinion in the case of *Autoridade Tributária e Aduaneira v. HPA – Construções SA* (Case C-433/22) on whether the former article 106 of the [VAT Directive \(2006/112\)](#), read in conjunction with point 2 of Annex IV, allows the reduced rate of VAT in Portugal to be applied only to renovation and repair work carried out on private dwellings when these are used as private dwellings at the time the work is carried out.

In this sense, the Advocate General considered that the reduced rate may be applied only if the services supplied relate to the renovation and repair of private dwellings that are being used as such at the time the work is carried out, although it is not necessary for the dwelling to be occupied at the time the service is supplied in order for this reduced rate to apply.

Specifically, the Advocate General concluded that:

"Point 2 of Annex IV to the VAT Directive [[VAT Directive \(2006/112\)](#)] must be interpreted to mean that the reduced rate of VAT may be applied only to services consisting of the renovation and repair of private dwellings which are used as private dwellings at the time when those transactions are carried out. Use as a private dwelling also applies if the recipient of the service has made the property available to a third party as a dwelling. However, the application of the reduced rate does not require that the property be occupied during supply of the services".

(Unofficial translation)

A more substantial report containing details of the Advocate General's reasoning will be published subsequently.