HMRC - VATSC53510 - Grants: Mohr

Court Reference: C-21/94

In this case, a dairy farmer received ‘compensation’ from the EU in return for undertaking to discontinue milk production. The German tax authority treated this payment as consideration for a taxable supply since there was an obligation by Mr Mohr to discontinue production in return for the payment.

The ECJ agreed with Mr Mohr’s appeal that the agreement to discontinue milk production was not a supply under Article 6(1) of the Sixth Directive (now Articles 24(1) and 25 of the Principal VAT Directive (2006/112), enacted in the UK by section 5(2) of VAT ACT 1994). They reasoned that by paying grants the EU or an individual member state did not acquire or consume goods or services for its own use. Rather, they acted in the common interest of promoting the proper functioning of the EU’s agricultural policy. Therefore the payment did not provide any direct benefit which would enable the EU to be seen as the consumer of a service and so the payment was outside the scope of VAT.

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