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European court rules reinsurer must pay tax on deal

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Adrian Ladbury

LUXEMBOURG—In a move that experts say will increase costs for insurers and reinsurers, the European Court of Justice ruled Thursday that value-added tax should be paid on a reinsurance portfolio transferred to Swiss Reinsurance Co. by its German unit.

The case, *Swiss Re Germany Holding GmbH vs. Finanzamt München für Körperschaften*, stemmed from a dispute over tax liabilities for a portfolio of life reinsurance contracts that were transferred in 2002 from a Swiss Re subsidiary in Germany to its Zurich, Switzerland-based parent.

The case was referred to the Luxembourg-based ECJ, Europe's highest court with jurisdiction over E.U. law, after an April 2008 ruling by a German court.

Swiss Re argued that the portfolio of life reinsurance policies its German subsidiary had transferred to a Swiss unit was exempt from VAT, which is applied to goods and services in many European countries.

German tax authorities argued, however, that the transaction represented a supply of service that falls under VAT rules and demanded that Swiss Re pay the 19% German rate.

The ECJ ruled that the sale of the reinsurance does not represent an exempt supply of service under E.U. law and that in this and all such deals transacted by companies based in European Union member states, the tax will have to be paid.

“This is hugely important as the insurance industry had been, for the most part, treating this as tax-exempt supply,” said Richard Asquith, of TMF VAT & IPT Services, a unit of the accounting group TMF Group. In addition, “the decision may not be limited to reinsurance, and could be interpreted as applying to insurance and other contracts.”. www.tmf-vat.com
