

The fact that a non-resident taxpayer who has made use of freedom of movement for workers is not allowed a tax exemption which is available to resident taxpayers constitutes different treatment of non-residents and residents, as well as a restriction of freedom of movement across borders.

May, and to what extent may, such different treatment be regarded as appropriate and justified as a result of the difference of residence?

In a situation in which the taxpayer's worldwide income is so low that the source State would not tax the income at all or would tax it in a smaller amount if a resident were concerned, the Commission considers that Member States must, when taxing non-resident individuals, take their personal and family circumstances into account to the extent that their equal treatment with resident taxpayers is ensured.

If the legislation of a Member State lays down a threshold below which it is considered that the taxpayer does not have the resources to finance public expenditure, there is no basis for differentiating between taxpayers whose income is below the defined threshold according to their residence.

The Commission takes the view that the provisions of the income tax law of the Republic of Estonia which do not make it possible to grant exemption from income tax on individuals to non-residents who receive half of their income from Estonia and the other half from some other Member State, and whose total income is so small that exemption from income tax would apply to them if they were resident taxpayers, are contrary to Article 45 of the Treaty on the Functioning of the European Union and Article 28 of the Agreement on the European Economic Area.

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**Order of the President of the Fourth Chamber of the Court of 10 December 2009 — European Commission v Republic of Austria**

(Case C-110/08) <sup>(1)</sup>

(2010/C 63/67)

*Language of the case: German*

The President of the Fourth Chamber has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 158, 21.6.2008.

**Order of the President of the Court of 21 October 2009 (reference for a preliminary ruling from the Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco (Spain)) — Emilia Flores Fanega v Instituto Nacional de la Seguridad Social (INSS), Tesorería General de la Seguridad Social (TGSS), Bolumburu S.A.**

(Case C-452/08) <sup>(1)</sup>

(2010/C 63/68)

*Language of the case: Spanish*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 6, 10.1.2009.

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**Order of the President of the Court of 17 December 2009 — European Commission v Republic of Poland**

(Case C-516/08) <sup>(1)</sup>

(2010/C 63/69)

*Language of the case: Polish*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 32, 7.2.2009.

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**Order of the President of the Sixth Chamber of the Court of 12 November 2009 — Commission of the European Communities v Republic of Hungary**

(Case C-530/08) <sup>(1)</sup>

(2010/C 63/70)

*Language of the case: Hungarian*

The President of the Sixth Chamber has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 19, 24.1.2009.