



**EUROPEAN COMMISSION**

**PRESS RELEASE**

Brussels, 19 December 2012

## **State aid: Commission finds Italian ICI real estate tax exemptions for non-commercial entities incompatible and clears amended exemptions under new IMU law**

The European Commission has found that the former Italian system of municipal real estate tax exemptions granted to non-commercial entities for specific purposes (ICI) between 2006 and 2011 was incompatible with EU state aid rules. After the Commission opened an in-depth investigation in October 2010 (see [IP/10/1319](#)), Italy amended the system and has now adopted a new municipal real estate tax law (IMU), which does not involve state aid since exemptions will only apply to premises where non-economic activities are carried out. The Commission has therefore closed its investigation.

Joaquín Almunia, Commission Vice President in charge of competition policy said: "*Non-profit entities play an important social role, which is reflected in the Italian real estate tax regime. However, when they operate on the same markets as commercial players, we need to make sure that they do not benefit from an undue advantage. The new Italian law on the taxation of real estate ensures that this is not the case.*"

In 2010, following a number of complaints, the Commission opened an in-depth inquiry on exemptions from the municipal real estate tax ("*Imposta comunale sugli immobili*" or "ICI") granted by Italy to non-commercial entities when performing specific activities, such as social assistance, welfare, health, cultural, educational, recreational, accommodation, sport, religious and worship activities (see [IP/10/1319](#)). An amendment introduced in 2006 allowed that activities which were "not exclusively of a commercial nature" could be performed in the real estate exempted from tax.

The Commission's investigation found that these exemptions provided a selective advantage to the beneficiaries with regard to the commercial activities they carried out, since these activities were in competition with services provided by other commercial operators. The Commission concluded that these exemptions were incompatible with EU state aid rules.

Since then, Italy has adopted a new law on the taxation of real estate. As of 1 January 2012, ICI has been replaced by IMU ("*Imposta Municipale Propria*"). The Commission found that IMU is in line with EU state aid rules, since it clearly limits the exemption to premises where non-economic activities are carried out by non-commercial entities. Moreover, the new legislation contains a set of requirements that must be fulfilled by non-commercial entities in order to exclude that the activities performed are of an economic nature. These safeguards ensure that exemptions from IMU granted to non-commercial entities do not involve state aid.

The Commission does not order Italy to recover the aid from the beneficiaries because the Italian authorities have demonstrated that, in this specific case, recovery would be absolutely impossible. In particular, the Italian authorities demonstrated that it would be objectively impossible to determine which part of the real estate belonging to non-commercial entities was used exclusively for non-economic activities and could therefore legitimately be exempted, and which part was used for activities that were considered as "not exclusively of a commercial nature" and whose exemption from the ICI could therefore entail state aid in the meaning of EU rules.

## **Background**

The Commission has also investigated Article 149(4) of the Italian Unified Law on Income Tax, which appeared to shield ecclesiastic institutions and amateur sports clubs from the application of the conditions that can trigger the loss of their non-commercial status. However, the Commission's investigation has revealed that the controls carried out by the competent authorities include these entities and that there is no system of "perpetual non-commercial status". As the measure provides no selective advantage to ecclesiastic institutions and amateur sports clubs, it does not constitute state aid in the meaning of the EU rules.

The non-confidential version of the decision will be made available under the case number [SA.20829](#) in the [State Aid Register](#) on the [DG Competition](#) website once any confidentiality issue have been resolved. New publications of state aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).

Contacts :

[Antoine Colombani](#) (+32 2 297 45 13)

[Maria Madrid Pina](#) (+32 2 295 45 30)