

Chamber of commerce contributions 28 April 2008

In a decision dated 17 April 2008 (n°23755C), the administrative court confirmed the first instance judgment of 24 October 2007 (n°22636) that invalidated a notice of assessment from the Chamber of Commerce.

As a reminder, the law of 4 April 1924, which rules the creation of professional chambers, refers to two Grand-Ducal decrees that should have been enacted, regulating the way in which contributions of the Chamber of Commerce are determined and collected. The Court confirmed that such decrees have never been taken and that consequently the issuance of a notice of assessment on 22 December 2006, referring to fees due for 2006 and 2005, was illegal.

Furthermore, the Court did not accept the arguments brought forward by the Chamber of Commerce that challenged the fact that the tax payer did not receive the initial notice of assessment of 7 July 2006, and that as a result the appeal of 5 March 2007 would have been filed out of the three month deadline. The Chamber of Commerce tried to prove that it remitted the initial notice to the Post and that the mail would have been returned to the sender should it not have been effectively delivered. The Court ruled this presumption to be insufficient to prove the receipt by the addressee and accepted the appeal filed within three months as from the receipt of the reminder.

The decision of the Court might give strong arguments to appeals filed against Chamber of Commerce fees for the years 2007 and earlier. Nevertheless, important legal changes have occurred ever since (Gand-Ducal decree of 21 December 2007, contribution decree of 31 January 2008) that should comfort the legal position of the Chamber of Commerce for 2008.

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