

By PwC Deutschland | 13. März 2011

Contributory pension from Switzerland taxable in Germany

A German resident ex-employee of a Swiss public body failed before the Supreme Tax Court in her assertion that her Swiss pension should be exempt in Germany as a pension from the public purse.

A German resident worked in a Swiss hospital, a canton public authority. During her employment, she contributed to the hospital's pension scheme by deduction from her salary. The system was common to all employees of Swiss public bodies. She maintained that her pension after retirement was a pension from the public purse, taxable in Switzerland as the country of payment. The tax office - and now the Supreme Tax Court - saw the pension as equivalent to a privately purchased pension, and thus as taxable in Germany. However, the German taxable benefit was the "income" amount, that is, the amount that could not be seen as redemption of the amount invested. This could be derived from the tables for German annuities. This ruling accords with the taxation of state old-age pensions paid to non-state employees - in the country of present residence.

The court also held that Swiss withholding tax could not be levied under the treaty. The taxpayer therefore had no claim to tax recognition of the amount deducted. That the tax office had granted partial relief was an act of grace, not here the subject of judicial review.

Supreme Tax Court resolution I R 92/09 of December 8, 2010 published on March 9, 2011

Schlagwörter

Swiss pension