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By PwC Deutschland | 02. November 2011

No exemption for danger or readiness money for essential services

The Supreme Tax Court has held that there is no call to extend the tax-free allowances for night etc. work to other burdensome activities, even if these are essential to the public interest.

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A member of a bomb disposal squad received two supplements to his regular salary, a readiness allowance for holding himself available for call out at all hours, and a danger premium for each bomb actually defused. He claimed that these allowances were comparable to allowances paid for night work and for work on Sundays or bank holidays and should rank for the same favourable tax treatment. He also pointed out that the activities of a bomb disposal unit were essential to public safety and thus at least as deserving of a tax benefit as salary supplements paid for working at unusual hours.

The Supreme Tax Court has now held that there can be no extension of the tax exemption to other circumstances, no matter how justified by public need. The legislative had chosen to exempt wage supplements paid up to set levels for night, Sunday and bank holiday work, but without mentioning any other circumstances. It was free to grant exemption, and it was also free to limit the qualifying circumstances. The court went on to point out that the social justification for the present exemptions had been, at best, only inadequately explained; thus there was little basis for drawing parallels. In any case, not all work qualifying for a tax-free supplement was essential to the public interest, and not all supplements paid to those in arduous public service were tax-free.

Supreme Tax Court judgment VI R 6709 of September 15, 2011 published on November 2

Schlagwörter

danger premium, readiness allowance, tax-free allowances