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By PwC Deutschland | 23. November 2011

Double tax treaty with Liechtenstein

The government has broken with its standing policy of not signing double tax treaties with tax havens with its signature on an OECD model treaty with Liechtenstein.

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Traditionally, Germany has been willing to sign a double tax treaty with any trading partner nation except for tax havens. She has now broken with this tradition with the finance minister's signature on a double tax treaty with Liechtenstein on November 17, 2011. Presumably, the feeling is that the cooperation and information exchange agreement of 2009 is sufficient protection of the German interest against tax fraud.

- The new DTT follows the OECD model. A building site is a p.e. after twelve months. Dividends to a corporation in the other country holding at least 10% of the shares for at least 12 months are free of withholding tax. The 12 months must be for an uninterrupted period straggling the dividend payment, but can be completed after the event. If the shares are held for a shorter period, the withholding tax is 5%. Other dividends are subject to a 15%tax deduction at source.
- Non-civil service pensions are basically taxable in the country of residence. If, however, they are paid by the social security authorities, they will be taxable in the country of payment.
- Double taxation in Germany is to be avoided by exempting the income taxable in Liechtenstein whilst taking it into account in fixing the German rate. The exception is the partially taxable dividend in Liechtenstein – taxable again in Germany with a credit for the Liechtenstein tax already borne.
- DTT relief is not to be granted on business income not earned through a trade. Non-trading income in this sense is that earned in the other state through an entity's own asset management (finance service providers are excluded), on a loan if not fully taxable in the country of receipt, and from dealing with intangibles that the company has not produced for itself.
- The treaty is to enter into force on the day of exchange of the instruments of ratification. It will be applied from the following January 1.

The treaty does not mention the on-going problem between Germany and Liechtenstein of the (presumed) large balances of undeclared income held on Liechtenstein bank accounts by German residents. Resolution of the problem is to be by further negotiation leading to a separate treaty.

Schlagwörter

Liechtenstein, double tax treaty