By PwC Deutschland | 26. April 2012

All capital gains from sale of foreign holdings include the relevant exchange gains and losses

The Supreme Tax Court has held that the capital gain on the sale of a foreign investment is the difference between the amount paid in euros and the amount received in euros.

The Supreme Tax Court was charged with reviewing and investment in the Bahamas denominated in US $. The holder calculated her gain on sale as the difference between the dollar amount invested and the dollar amount received, translated into euros at the current rate. The Supreme Tax Court on the other hand sided with the tax office in holding the gain to be the difference between the original amount invested in euros and the proceeds on sale also in euros. Both amounts were to be translated at the official exchange rate on the day of the transaction. This also applied where the original investment was in a different currency to that received on dissolution, and to capital repayments on winding-up.

The taxpayer raised the objection that the exchange gain or loss on the transaction would be included in the gain under the Supreme Tax Court method of calculation. The court agreed, but said that exchange gains or losses in the hands of private individuals were not tax exempt if they arose in direct connection with other transactions, in this case, a foreign investment, subject to taxation (n.b. exchange gains and losses are, in the meantime, taxable as investment income).

Supreme Tax Court IX R 62/10 judgment of January 24, 2012 published on April 4

Schlagwörter

exchange gain, foreign investment, gain on sale