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By PwC Deutschland | 14. Juni 2012

Annual Tax Bill 2013

The cabinet resolved an annual tax bill 2013 on May 23, 2012 with many editorial and similar changes of formality. Mostly, the changes are necessary to update the references to the latest EU provisions and to reflect recently decided ECJ and Supreme Tax Court cases. Changes of substance are:

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Transposition of the revised EU Mutual Assistance Directive (2011/16/EU) into national law The former provisions reflecting the Mutual Assistance Directive 77/799/EEC will be withdrawn. Liaison with the central tax authorities of the other EU member states and with local tax offices will be in the hands of the Central Tax Office. Information requests from abroad are to be answered promptly, at the latest within six months of receipt. There is to be an automatic information exchange with the taxpayer's state of residence on employment income, director's fees, life assurance policy redemptions and sales, pensions, and property and rentals. There is to be a spontaneous information exchange on:

- Any matter likely to be of use to the tax authorities in the other state, in particular if there is any suspicion of evasion there
- Tax benefits or reliefs granted in Germany in respect of income that might be taxable in the other state
- Business dealings that might lead to tax savings in one or both states
- Suspicions of artificial profit shifts
- Further information discovered following information received from another member state that might be important to the authorities there.

The revised EU Mutual Assistance Act will also contain provisions allowing foreign tax officials to act in Germany if accompanied by a German colleague and on coordinated tax audits. It will take effect in respect of business years beginning on or after January 1, 2014 and will govern information exchanges from January 1, 2015. **The Income Tax Act** Employee allowances and reliefs are to be set for a two year period for the purposes of calculating the tax to be deducted from an employee's salary. Double tax treat relief is to be granted to the beneficial owner of income or assets where the legal owner is not the taxpayer under German or foreign law. **The Foreign Tax Act** A foreign partnership will now rank in its own right as a taxpayer or related party. A German company is to trade with its foreign branch at arm's length as though the branch were a separate legal entity ("presumed contractual relationship"). Transactions between permanent establishments or between a permanent establishment and its head office thus fall under the transfer pricing rules applicable to corporate related parties. A finance ministry decree is to give more detailed guidance on the consequences of extending the arm's length principle to different parts of the same legal entity, including especially on the subject of the necessary branch capital. The transfer pricing documentation requirements are to be applied to dealings with and between branches and/or a foreign head office. **Document retention periods** Whilst the minimum retention period for financial statements, inventories and other documents of major importance will continue to be ten years, that for booking vouchers is to fall to eight years in 2013 and to seven in 2015. The retention period for business correspondence will fall to six years

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