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Employee option in valuing staff purchases

The finance ministry has instructed tax offices to follow the Supreme Tax Court in allowing employees to value their benefit from subsidised staff purchases under the general rules for benefits in kind, if more favourable.

Benefits in kind are to be valued at the usual local retail price less customary discount. Staff purchases – of products manufactured or dealt in by the employer – on the other hand are valued at 96% of the customary price charged by the nearest retailer. The benefit is this value less the amount paid by the employee less an annual staff purchase allowance of €1.080. Traditionally, the two rules were seen as mutually exclusive – a staff purchase could not be valued as a sundry benefit in kind – but in 2012, the Supreme Tax Court linked them in a case holding that an employee had an option to value his or her staff purchases under the rules for benefits in kind generally, if this was more favourable in the circumstances. The court also held that the “usual local retail price less customary discount” referred to the best offer locally available to customers, rather than being an average value. The finance ministry has now issued a decree calling on tax offices to follow this judgment in all cases still open.

The ministry confirms that employees purchasing company goods at a discount have the option to value their benefit under the more general rules for benefits in kind. However, the company is not under an obligation to base the payroll withholding tax on an employee's choice. Rather, it should take the immediately appropriate method and base the valuations on its own local knowledge. If employees disagree with this choice or can establish access to a lower purchase price – including on the internet – it is up to them to enter an adjusted value on their tax return. They must, of course, support this valuation with offers or other suitable documentation. The staff purchase rule is to be based on the price charged by the nearest retailer less his customary discount. However, the manufacturer's or wholesaler's recommended retail price can be taken as a starting point for simplicity. The nearest retailer's customary discounts should then be deducted from this value.

Schlagwörter

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