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By PwC Deutschland | 15. Oktober 2013

Tax & Legal News – Issue 4, October 2013

In this issue: PwC Reports, Official Pronouncments, Supreme Tax Court Cases, From Europe and From PwC.

https://blogs.pwc.de/de/german-tax-and-legal-news/article/229408/

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PwC Reports

- Draft ordinance on permanent establishment profits

Official Pronouncements

- Subject to tax rules in treaties
- Withholding tax exemption on dividends on shares held in bank custody
- Maximum foreign tax credit to take account of personal allowances
- Automatic information exchange with Spain on pensions
- Provisions to be taken up by public-private partnerships under normal accounting principles
- Employee option in valuing staff purchases

Supreme Tax Court Cases

- Organschaft parent need not be active business until subsidiary's first year end
- No provision for cost of meeting a future technical requirement
- Container accounting – provision for return of bottles
- Option premium not part of sale proceeds
- No return of capital contribution in the same year
- No correction in later years of tax auditor's error
- Write-down on some foreign investments permitted for 2001
- Mobile phone discount is prepaid expense
- Related party by ownership despite restrictions on exercise of ownership rights
- Leasing fee for foreigners only taxable in so far as object used in Germany
- No trade tax add-back for foreign dividends in 2001
- Real estate transfer tax basis reduced if conveyancing costs borne by seller
- No RETT if indirect change in partnership incomplete
- Hidden distribution from foreign company is investment income in Germany
- Gain on sale of profit participating right acquired before 2009 tax-free
- Return of employee shares at fixed price leads to employment income
- Permission to use company car privately is taxable benefit, but no presumption that prohibition on private use will be ignored
- Chauffeur is taxable benefit for employee
- Three-month limit on subsistence allowance upheld

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- Import value of DVDs includes estimated royalties payable by subsequent purchaser
- No allocation of input tax to intended tax-free turnover
- Liability for VAT in ceded debts cannot be avoided by contract
- No VAT on sale of bad debts
- Contractual agreement cannot limit a taxpayer's duty to supply information

From Europe

- Exemption from loss cancellation on change of shareholders may constitute state aid
- Full inheritance tax exclusion for non-EU residents?

From PwC

- Breaking news

Issue 4 2013

Schlagwörter

employee option, state aid, subject to tax