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Fine payment for employee is taxable benefit

The Supreme Tax Court has held that the payment by the employer of a fine levied on an employee cannot be for a valid business reason and is therefore a taxable benefit subject to payroll withholding tax.

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A haulage company regularly paid the fines levied on its drivers for exceeding the permitted period at the wheel and for failing to take the prescribed rest breaks. The tax office saw the payments as employee benefits and demanded payment of the payroll withholding tax. The company protested that it had paid the fines in its own business interest and referred to a Supreme Tax Court judgment in 2004 (case reference VI R 29/00 judgment of July 7, 2004) allowing an employer to reimburse employees for their parking fines necessarily incurred in the course of their business duties.

The Supreme Tax Court has now confirmed the tax office in its view. An employer may reimburse an employee tax-free for outlays incurred in the business interest. However, that business interest must significantly outweigh any private interest of the employee. That can never be the case when compensating an employee for an illegal act, since a legitimate business activity must remain within the law. The court added that in response to public criticism it no longer held to its 2004 judgment.

Supreme Tax Court judgment VI R 36/12 of November 14, 2013 published on January 22, 2014

Schlagwörter

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