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By PwC Deutschland | 24. Februar 2016

Bonus dividend points for co-operative bank members are hidden distributions

The Supreme Tax Court has held the cost of bonus dividend points of members of a co-operative bank to be a hidden distribution when the programme is open to members only and the maximum bonus is capped.

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A co-operative bank sought to bind its members to its business with a bonus programme based on the award of points for services used. However, the programme was not open to non-members – though they were welcome as customers – and was subject to upper limits on the number of points any one member could earn in a year. Further use of the bank's services once this limit had been reached had no further effect on the member's bonus. For this reason, the bonus programme was different from customer quantity rebates based on total turnover. The exclusion of non-member customers from the programme was a further indication of the intention to benefit the members as investors rather than as customers. Accordingly, the court found that the intent to serve the members as members was stronger than the desire to encourage them as customers. Thus the cost of the bonus programme was a hidden distribution of profit as claimed by the bank.

Supreme Tax Court judgment I R 10/1 of October 28, 2015 published on February 24, 2016

Schlagwörter

co-operative, hidden distributions