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By PwC Deutschland | 29. August 2023

Transfer of assets of an investment fund as part of spin-off

On 25 August 2023, the Federal Ministry of Finance (MoF) issued a circular on the transfer of assets from an investment fund within the meaning of Chapter 2 of the Investment Tax Act to a new investment fund as part of a spin-off.

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Background

In certain exceptional situations, the law of some foreign countries permits the transfer of non-tradeable assets (illiquid assets) to a new investment fund as part of a spin-off process. Conversely, it is also possible that the illiquid assets remain in the previous investment fund and the assets that can still be traded (liquid assets) are transferred to a new investment fund as part of a spin-off process. When liquid assets are transferred to a new investment fund, however, the previous international securities identification number (ISIN) is sometimes also transferred to the new investment fund.

The investor receives one or more units (shares) in the new investment fund (hereinafter referred to as: split off investment fund) for each investment share that he owns in the previous investment fund, while retaining the previous shareholding ratio. As a rule, foreign law provides for the liquidation of the investment fund to which the illiquid assets are transferred or in which they remain.

In the circular, the MoF addresses in detail the following subjects:

- Principles of taxation for investment funds and their Investors within the framework of Chapter 2 of the Investment Tax Act

- Deviating taxation on concessionary grounds and for reasons of simplification

Application

The letter is to be applied in all open cases, when collecting the withholding tax /capital gains tax and in the tax assessment.

Reference:

Federal Ministry of Finance circular of 24 August 2023 (IV C 1 - S 1980-1/19/10008 :029).

Schlagwörter

Spin-off, investment funds