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By PwC Deutschland | 07. Dezember 2025

No accrual of loan interest if terms of payment are prolonged prior to initial maturity date

If a majority shareholder and the company decide that the interest maturity date from a loan granted to the company should be extended, the interest does not immediately accrue to the shareholder if the amendment was concluded prior to the original interest due date. According to the Supreme Tax Court, this applies irrespective of whether the terms and circumstances of the prolongation are customary and in line with arm's length principles.

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Background

In the year in dispute (2017), the plaintiff was the managing director of a corporation under Spanish law (company) and held 80% of the capital of that company. In 2007, the plaintiff had granted a loan to the company. The loan had a term of ten years and was repayable on 30 December 2017. In 2011, the plaintiff waived the loan repayment claim against the company and a contribution to the company was made. The plaintiff's claim for loan repayment was then deemed to have been repaid through conversion into equity (debt-equity swap). On 14 November 2017, the plaintiff and the company concluded a supplementary agreement whereas the loan was extended for another 5 years, until 31 December 2022. Based on this amendment, the tax office assumed that the plaintiff had received interest as of 30 December 2017. The lower tax court had dismissed the appeal of the plaintiff.

Decision

The Supreme Tax Court overruled the decision of the former court and confirmed the opinion of the plaintiff.

Income from capital investment within the meaning of Section 20 (1) No. 7 Income Tax Act (ITA) is accrued in accordance with Section 11(1) sentence 1 ITA as soon as the taxpayer has obtained the right of disposal of the asset from an economic point of view.

The holding of (due) claims or rights does not alone lead to the accrual of capital investment income as this generally occurs only at the time the claim is fulfilled. In the case in dispute, the interest claim is not due. As a matter of fact, the plaintiff's claim against the company was not due at any point during the year in dispute.

The tax court of first instance wrongly assumed that the separate interest debt could not have been extended. Rather, as the Supreme Tax Court put it, the agreement of 14 November 2017 does not constitute a novation leading to the accrual of interest. Neither the agreement itself nor the circumstances surrounding its conclusion provide any indication that, instead of the clearly agreed extension of the interest claim before maturity, a debt conversion may have been intended.

Such an arrangement for deferral need not be arm's length but may be made to support the company and thus be caused by the corporate relationship. In this respect, the interest-free deferral of the claim does not constitute a hidden contribution as there is a lack of an asset eligible for such contribution.

Source:

Supreme Tax Court, decision of 17 September 2025 (VIII R 30/23), published on 4 December 2025.

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Schlagwörter

accruall, deferral, interest period