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Federal Ministry of Finance: Recognition and valuation of pension provisions in the tax balance sheet pursuant to Section 6a of the Income Tax Act

On 17 September 2026, the Federal Ministry of Finance published a circular on the recognition and valuation of pension provisions in the tax balance sheet under Section 6a Income Tax Act ("ITA") in respect of pension commitments that depend on future events such as the performance of the underlying securities.

Background

In its decision of 4 September 2024, the Supreme Tax Court clarified that pension provisions according to Section 6a ITA were required even for pension commitments where the employee's right to benefits is legally binding, but the amount depended on future events.

The decision covered pension promises that were conditional on the value of a reinsurance life insurance policy invested in fund units (fund-linked life insurance) at the time when the pension event occurred (e.g., retirement). This meant that the pension obligation was not fixed but varied with the underlying investment's value at the start date of the pension.

The Supreme Tax Court also noted in the decision that the partial value ("*Teilwert*") of such pension liabilities must be calculated according to Section 6a ITA, including those cases where the promise is contribution-oriented without a guaranteed minimum benefit.

Content of the circular

The Federal Ministry of Finance states that, following consultation with the highest tax authorities of the Federal States, the principles of the Supreme Tax Court's ruling are to be applied beyond the specific case decided upon to all cases still pending.

Treatment of pension benefits dependent on future uncertain events

When pension benefits depend on uncertain future events such as the performance of securities or investments at a future point (e.g., pension commencement), the valuation of a pension provision is based on the market situation **as at the balance sheet date**. This valuation approach follows the "valuation date principle" ("*Stichtagsprinzip*") stated in Section 6a (3) Sentence 2 Number 1 ITA.

Practically, the market prices or current values of underlying securities should be used for this purpose. However, if there is any guaranteed minimum benefit promised, at least this minimum amount must be included in the pension provision.

Valuation of deferred compensation/salary conversions

The minimum present value comparison test under Section 6a (3) Sentence 2 Number 1 second Alternative ITA specifically applies to salary conversion arrangements within the meaning of Section 1 paragraph 2 of the German Occupational Pensions Act (*Betriebsrentengesetz – BetrAVG).*

Salary conversions are arrangements where employees convert part of their salary into pension benefits.

This valuation rule applies only if two conditions are met:

- The beneficiary (employee) falls within the scope of the Occupational Pensions Act.
- The arrangement qualifies as an occupational pension under the terms of the Occupational

Pensions Act.

Repeal of the Federal Ministry of Finance (BMF) circular of 17 December 2002 (BStBl I p. 1397)

The Federal Ministry of Finance circular of 17 December 2002 (BStBl I p. 1397), which conflicts with the above-mentioned ruling of the Supreme Tax Court and states that pension provisions may only be recognised to the extent that the pension entitlement relates to a guaranteed minimum benefit, is repealed through the new circular.

With regard to the statements contained in point 2 of the aforementioned letter of 17 December 2002 concerning the separate accounting of securities and pension liabilities, reference is made to R 6a, Paragraph 23, of the Income Tax Guidelines (*Einkommensteuer-Richtlinie*) and the corresponding notes H 6a, paragraph 23, of the Official Income Tax Handbook (*Amtliches Einkommensteuer-Handbuch/ EStH*).

Prohibition on retrospective adjustments pursuant to Section 6a(4), first Sentence ITA

Where the circular is applied for the first time in a financial year ending before 1 January 2028, no objections will be made if the so-called prohibition on retrospective adjustments under Section 6a(4), first Sentence ITA is not observed.

Source

Federal Ministry of Finance circular of 17 September 2026, (IV C 6 - S 2176/00030/001/054).

Schlagwörter

pension provision, retirement pension