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Expense deduction for non-residents

The finance ministry has issued a decree on the expense deduction from the income of EEA residents subject to withholding tax.

In October 2006 the ECJ held in *Scorpio* (case C-290/04) that community law required that the withholding tax on the income earned by EU/EEA nationals resident in other EU/EEA countries take the related expenses of earning that income into account. The finance ministry has now issued a decree for the benefit of the German income creditor responsible for accounting for the withholding tax to the tax office. In brief, the creditor may now deduct the withholding tax from the net income after deducting the related expenses actually incurred and properly supported with copies of invoices, payment instruments and similar. The withholding tax return may be adjusted later to take account of expenses not known, or not yet paid, at the time. The expense deduction is restricted to nationals of the EU/EEA countries resident within the EU/EEA area, though not necessarily in the country of nationality. Nationality and residence are to be supported with passport copies and certificates of residence from the home country tax office.

Keywords

non-residents, personal services, tax at source, withholding tax