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By PwC Deutschland | 16 March 2011

Employer’s pension contribution tax-free regardless of wording

The Supreme Tax Court has held that an employer’s pension fund contribution paid on behalf of an employee is not taxable merely because it was described as a payment on behalf of the employee.

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Pension fund contributions paid on behalf of an employee are for him tax-free income provided they do not exceed 4% of the upper limit for old-age pension contributions. In 2011, this means a maximum annual tax-free contribution of €2,640. The Supreme Tax Court has now held that the privilege applies to all contributions paid by an employer so long as he remains the beneficiary under the terms of the assurance policy or fund agreement. The identity of the insured person is the distinguishing factor from taxable contributions paid under a scheme giving the employee a direct right of claim on the fund prior to reaching retiring age. This is a question of the terms of the contract, but not of the descriptions used or of the economic background behind the arrangement. Thus, in the case at issue, describing a contribution as made “on behalf of an employee” or as “employee contributions” did not render it taxable income in his hands.

Supreme Tax Court judgment VI R 57/08 of December 9, 2010 published on March 16, 2011

Keywords

contributions, employer, pension fund