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By PwC Deutschland | 04 January 2012

Tax changes for 2012

The act transposing the EU mutual assistance directive on tax collection introduces a number of rotine statutory changes and thus serves as an annual tax act.

https://blogs.pwc.de/en/german-tax-and-legal-news/article/229219/

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The requirement to transpose the EU Council directive on mutual assistance in the recovery of tax and duty claims has given the government the opportunity of enacting a number of other changes, mostly of a technical, or routine, nature. The most important are:

- Income flowing to individuals changing their private retirement pension insurance arrangements has been declared tax-free as far as it is manifested in the transfer of assets from one insurer to another.
- The application of the provision to curb the misuse of double tax treaties (“treaty shopping”) by denying treaty (or EU directive) relief to foreign companies held by shareholders who would not have been entitled to relief had they received the income from Germany directly has been revised. Henceforth, a foreign company loses its relief entitlement to the extent it is disqualified by its shareholders and in so far as its gross earnings do not stem from its own active business activity, and, either with respect to the “passive” earnings there is no business or other good reason for its interposition, or it lacks suitable premises and equipment for its business activities.
- The corporate recovery exemption from the loss relief curtailment provisions on change of shareholders has been suspended following the European Commission’s decision that the exemption constitutes state aid. This suspension has now been given a statutory basis. It will last until either the ECJ quashes the Commission’s decision, or the Commission withdraws it of its own accord. Once the suspension is lifted, the exemption will apply to all open cases.
- The VAT Act has been amended in respect of trade fair or exhibition services provided in Germany in respect of events to be held in non-member states of the EU/EEA. Performance is now deemed to be in the country where the event is held.
- The withholding tax provisions on employee wages have been refined and extended in respect of the tax authority digitization of the system.

Keywords

mutual assistance, tax changes, treaty shopping