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New double tax treaty with the Netherlands

A revised double tax treaty has been signed with the Netherlands reflecting the current version of the OECD model.

The representatives of Germany and the Netherlands put their signatures to a new double tax treaty on April 12, 2012. The new treaty follows the OECD model in its current state and thus includes the more sophisticated exchange of information, mutual agreement and anti-abuse provisions of recent years. Specific details are:

- A building or assembly site becomes a permanent establishment after twelve months.
- The withholding tax is 5% on dividends to a company holding at least 10% of the shares, 10% on dividends paid to pension funds and 15% in all other cases.
- Interest and royalties are free of withholding taxes.
- Pensions are taxable in the state of residence, unless paid by the social security authorities. If, however, the annual pension is more than €15,000, it may also be taxed in the state of payment. This tax is then credited against the tax in the state of residence if relevant.
- Double taxation is basically avoided by exemption, provided the other state exercises its right to tax. Exempt income is taken into account when setting the rate to be applied to the remainder. Conflicts of law are resolved by switch-over to the credit method if “white” income would otherwise ensue.
- Businesses (and their employees) on German/Dutch trading estates straddling the border are taxable in the country of their management. If this is not clear, the right to tax falls to the country in which the greater part of the main building lies. The tax auditors of the country with the right to taxation have access to the entire building, but must notify the start and finish of the audit to their colleagues from the other state.
- The treaty enters into force on the first day of the second month following the exchange of instruments of ratification. It takes effect on the following January 1.

Keywords

Netherlands, OECD model, double tax treaty