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By PwC Deutschland | 22 May 2012

Tax Amendment Act

Three minor tax changes were enacted in an amending statute of May 8.

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The “Act Amending the Communal Finance Reform Act and Tax Rules” of May 8, 2012, promulgated on May 11, enacts three minor and non-controversial changes to the tax statutes. They are:

Sales of horses are subject to standard rate VAT from July 1, 2012. This follows in reaction to an ECJ case holding that horse sales may only be taxed at the reduced rate if made for food or for the manufacture of foodstuffs or fodder. This exception has been ignored as it has no real relevance to the German economy or eating habits.

The Income Tax Act exemption of the private use by employees of internet and telephone facilities provided by the employer has been extended to include computer programmes. Thus, private use by an employee of an employer programme installed in his home office is no longer a taxable benefit in kind. The changes is retrospective to 2000, the year in which the internet exemption was introduced, and thus applies to all cases still open to “wage tax” audit or other investigation.

The Income Tax Act provision to counter tax treaty abuse has been extended with a new sub-section to the effect that tax treaty exemption of dividend income attributable under domestic law to a person other than the actual recipient shall only be available to the extent the true beneficiary would have been entitled to an exemption had he received the income direct. This change is intended to curb abusive exemption claims by companies acting as undisclosed agents for private individuals and applies as of January 1, 2012.

Keywords

tax amendments, treaty abuse, treaty exemption