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By PwC Deutschland | 27 February 2013

Provision for record retention costs can include interest

The Supreme Tax Court has held that the costs to be taken into account in calculating the provision for future record retention costs can include an interest allocation in respect of the financing costs of the facilities used.

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The Supreme Tax Court has previously held that a company faced with a statutory record retention requirement can take up a provision for those costs anticipated in respect of the records already existing. Other things being equal, it may be assumed at year-end that the remaining average retention span will be 5.5 years, based on a ten-year statutory period. It has now held that the costs to be taken into account are to be measured on a full costing basis and are to include reasonable interest on the costs of financing the facilities used. This interest expense can be general, that is, it is not restricted to that paid on a tied, or specific purpose loan, although it must be verifiable as actual through a suitable costing system. If the financing is general, it can be allocated as a composite rate based on the company's interest expense compared to its total borrowing set in proportion to the ratio of loan finance to shareholder's equity. The amount, though, must be reasonable from the point of view of overall trading. This means that other, non-tax rules to with the company is subject should be taken into account. In the case at issue, a savings bank, a reasonable upper limit was that given by the solvability ratio to which the bank, in any case had to adhere.

Supreme Tax Court judgment I R 66/11 of October 11, 2012, published on February 27, 2013

Keywords

interest allocation, provision, record retention