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By PwC Deutschland | 14 January 2014

Tax consequences of dissolution of German resident British company

The finance ministry has decreed that a German resident British company struck off the British register of companies will be treated as having entered into liquidation.

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Forming a British limited company as a vehicle for a German operation is sometimes seen as an easier and quicker alternative to the GmbH as a means of incorporation. It also avoids the German minimum capital requirement of €25,000. However, the company must observe regular reporting and compliance requirements, even if it is not resident in the UK, e.g. by virtue of its German place of management. If it fails to comply, it risks being struck off the register. If that happens, the company immediately ceases to exist, its unsecured liabilities are cancelled and its assets fall to the Crown. The finance ministry has now published a decree outlining its views of the German tax consequences of such a dissolution.

The ministry does not wholly accept the consequences of British law. Rather, it sees the removal of the company from the register as the start of the winding-up period. The company is therefore deemed to continue in existence, though it may no longer trade. Its tax liabilities and assets (repayment claims) remain valid, as does the obligation to file tax returns for the liquidation period. Winding-up will be in the hands of previous management, unless the tax office or other creditor presses for the appointment of a liquidator. Continued business in the company name will be seen as the business transactions of the individuals responsible, to be taxed as their own trading income.

Keywords

British company, Limited, register of companies, struck off