By PwC Deutschland | 18 June 2014

Subsequent sales price adjustments affect tax-free income in year of sale

The Supreme Tax Court has held that subsequent adjustments to the sales price of the shares in a subsidiary affect the tax-free income of the year of sale, not of the year of adjustment.

A company sold its wholly-owned subsidiary under a complex arrangement involving future business co-operation with the buyer. It became clear the following year that the arrangements would not work in practice and the two parties agreed to settle their differences with a further payment to the seller. Both the seller and the tax office agreed that the two payments were tax-free income by nature, although the tax office insisted that they be taken to income in the year of receipt, whilst the taxpayer wished to record the second payment as a late adjustment to the income in the year of sale.

The Supreme Tax Court took the view of the seller. It followed a previous case in which it had held that a bad debt resulting from a buyer's default on his payment obligation for an acquisition should be set against the seller's tax-free income in the year of sale. The same should apply to the present case of a subsequently agreed price adjustment.

Supreme Tax Court judgment I R 55/13 of March 12, 2014 published on June 18

Keywords

late adjustment, price adjustment