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Insurance premium rebates not employment income if also available to employees of other companies

The Supreme Tax Court has held that staff rebates are not employment income if the same rebate is available to employees of other, non-related companies.

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An insurance company granted its employees a rebate off premiums on policies concluded with it, or with other insurers in which it held an interest. The details were set out in the staff handbook. A tax office saw these rebates as a benefit to the employees from their employment and therefore taxable as employment income. The insurance company disputed this position on the grounds that the same benefits were available to employees of other companies and had not been granted to its own employees in return for services rendered. One of the subsidiaries involved granted the same rebate to all employees throughout the insurance industry and the other granted them to the staff of named companies outside the group.

The Supreme Tax Court has now sided with the company. If the same benefit was freely available to employees of other companies for no other reason than their employment relationship, then they had not been granted to the company's own employees for services rendered. They were therefore not employment income and the company was not responsible for payroll withholding taxes. That the rebates were described in the staff handbook and the employer allowed staff from the other companies access to facilities as necessary for negotiating and concluding contracts did not automatically mean that the employer had arranged for third-party benefits to the employees as a reward for work done. Rather, the arrangements could be seen as being for the mutual benefit of all the insurers involved – by identifying an easily approachable circle of potential customers, selling costs were kept to a minimum.

Supreme Tax Court judgment VI R 62/11 of April 10, 2014 published on July 16

Keywords

employment income, insurance premium rebates, staff rebates