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Regular remuneration can qualify for multi-year preference

The Supreme Tax Court has held that remuneration paid in a single sum for a fourteen-month period can qualify for preferential treatment as remuneration paid for more than one year.

https://blogs.pwc.de/en/german-tax-and-legal-news/article/229632/

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Unusual income, particularly if paid for an activity lasting for longer than twelve months is open to preferential taxation. Essentially, the tax is assessed at five times the incremental income tax on one-fifth of the amount. The purpose of this privilege is to avoid the damaging progressive effect on the tax charge on remuneration for a longer period falling due in a single period of assessment. This privilege was claimed by the chief executive of a charity whose remuneration period for an unchanged lump sum payment had been extended from twelve to fourteen months. This effective salary reduction was intended to forestall a possible accusation of excessive remuneration leading to loss of charity status. The tax office denied the privilege because the fourteen-month remuneration was neither “unusual” nor earned from any activity outside the normal course of events. In particular, the executive’s duties and responsibilities remained unchanged.

The Supreme Tax Court has now held the executive to be entitled to the privilege of multi-year taxation. There was no requirement in the law that the earnings be “unusual” or be for activities beyond the executive’s normal duties. Rather, the only requirement was for a good business reason for the arrangement chosen. The good business reason could be based on the circumstances of either payer or recipient. In this case, the fear of a possible loss of charity status for the payer was a good business reason.

Supreme Tax Court judgment VI R 44/13 of May 7, 2015 published on August 12

Keywords

multi-year, preferential taxation, unusual income