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By PwC Deutschland | 14 October 2015

Ruling fee based on immediate tax effect

The Supreme Tax Court has held that the value-based fee for a tax office ruling is to be based on immediate tax effects only, ignoring secondary consequences.

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Tax offices may issue binding rulings to taxpayers on the tax treatment of planned measures or transactions against payment of a value-based fee. The value is the tax effect of the ruling, that is, the difference between the tax payable if the tax office rules as requested by the taxpayer and that payable were the tax office to take the opposite position. No fee is payable if the value is less than €10,000 and the maximum chargeable value is €30 m. The corresponding fee range is €241-€91,456.

The Supreme Tax Court has now held that the tax value of ruling requests is to be based on the immediate tax effects of the ruling only. The ruling at issue was on whether or not a planned corporate reconstruction could be recorded at book value, and thus to defer into the future the taxation on the capital appreciation of the tangible and intangible assets. The applicant made the calculation as required, but deducted the tax effect of the (then) deductible trade tax provision resulting from the release of the hidden reserves. He also deducted the effects of the future tax savings resulting from the higher tax depreciation base of assets revalued to market value. The court though rejected both adjustments, saying that neither the trade tax provision nor future depreciation were the subject of the ruling and were thus not relevant to the calculation of its fee.

Supreme Tax Court judgment IV R 13/12 of April 22, 2015 published on October 14

Keywords

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