

By PwC Deutschland | 19 July 2016

German Inheritance and Gift Tax Reform 2016 postponed

The new German Inheritance and Gift Tax Act which was presented by the German government in June 2016 in order to meet the standards set by the German Constitutional Court is delayed: The representatives of the German provinces (Bundesrat) did not accept the package.

The Inheritance Tax Act seeks to protect family businesses from a potentially devastating inheritance (or gift) tax charge by exempting business assets, including shareholdings of more than 25% in German or EEA companies operating an active business. The object is to preserve jobs dependent upon the personal involvement of the business owner (or his or her family members) and, accordingly, the exemption is conditional upon the total wages bill in the five years after the transfer not falling below 80% of the total paid in the five years before it. However, businesses with no more than 20 employees do not have to meet this condition.

In its judgment of December 17, 2014 the Constitutional Court has held the exemption of business assets from inheritance and gift tax to be unconstitutional as it is too broad-based but allowed the present rules to continue in force provided they are amended by June 30, 2016. Since then the German government has been working on a revision of the Inheritance and Gift Tax Act and on July 8, 2015 came forth with a corresponding draft "Reform Act". Following rather lengthy political debates, the lower chamber of parliament (*Bundestag*) - on June 24, 2016 - passed the "German Inheritance and Gift Tax Reform Act". However, in its meeting on July 8, 2016 the upper chamber (i. e. the *Bundesrat* – consisting of delegated members of the provinces) refused consent and the bill was thus referred to the Mediation Committee (acting as an intermediary between the *Bundestag* and the *Bundesrat*) which now must find an appropriate compromise. If the decision reached by the Mediation Committee (which, by the way, will not resume work before the end of the summer holidays) deviates from that of the *Bundestag*, it is necessary for the plenary to vote again on the legislation.

Keywords

Inheritance and Gift Tax Reform 2016, inheritance and gift tax