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Tax & Legal Newsflash - 21 December 2017

ECJ: German Anti-Treaty-Shopping Rule infringes EU law.

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On 20 December 2017 the European Court of Justice (ECJ) issued its decision on two cases referred to it by the Cologne Tax Court on the compatibility of the anti-abuse rule in Section 50d Income Tax Act (ITA) with EU law. According to Section 50d (3) ITA certain intermediary foreign companies are not entitled to a (full or partial) refund of German withholding tax; without a preceding oral hearing the ECJ took the view that the section was incompatible with both the Parent-Subsidiary Directive and the freedom of establishment.

NewsFlash ECJ §50d III EStG

Keywords

anti-treaty shopping rule