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By PwC Deutschland | 27 September 2018

German trade tax exemption for third country dividends in breach of EU-law

On 20 September 2018, the European Court of Justice held that the “activity clause” in the German trade tax act for third country sourced dividends is contrary to the free movement of capital (Art. 63 of the Treaty on the Functioning of the EU - TFEU).

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The judgment has significant practical impact on the tax treatment of third country sourced dividends for German trade tax purposes. It sets up the principle that an “activity clause” with no “motive test” is not in line with the fundamental freedoms of the TFEU if the provisions regulating the tax exemption for domestic dividends do not include such a clause.

More details of the ECJ-judgement can be found in our ***EU Direct Tax Newsalert*** of 24 September 2018.

Keywords

third country dividends, trade tax exemption