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By PwC Deutschland | 21 June 2022

Identical decrees issued by the highest tax authorities of the German Federal States on the application of the extended deduction from trading income under Sec. 9 No. 1 Sentences 3 and 4 of the Trade Tax Act (TTA)

On 20 June 2022, the German Federal Ministry of Finance (MoF) published identical decrees issued by the supreme tax authorities of the Federal States on certain application issues in relation to the extended reduction of trading income pursuant to Section 9 No. 1 Sentences 3 and 4 of the Trade Tax Act as amended by the "Act to strengthen Germany as a location for funds and to implement Directive (EU) 2019/1160 amending Directives 2009/65/EC and 2011/61/EU with regard to the cross-border marketing of undertakings for collective investments" – in short the "Fund Location Act" of 17 June 2021.

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Background:

The Fund Location Act (FLA) amended Section 9 No. 1 Sentences 3 and 4 TTA. With the goal of providing incentives for the expansion of electricity generation from renewable energy sources and for the operation of charging stations for electric vehicles or electric bicycles, the amendment provides, inter alia, that real estate or housing companies may – subject to certain conditions -continue to claim the extended deduction from their trading income for those activities set out in Section 9 No. 1 Sentence 2 TTA. The new regulation extends the number of activities which are not regarded as harmful for the application of the extended reduction.

The decree is divided up into the divisions, providing definitions of the terms, comments on their application and working examples:

I. General remarks

II. General information on Section 9 No. 1 Sentence 3 Letters (b) and (c) TTA

1. Income from the supply of electricity in connection with the operation of plants for the generation of electricity from renewable energy sources within the meaning of Section 3 No. 21 EEG (Section 9 No. 1 Sentence 3 Letter (b) double Letter (aa) TTA)

2. Income from the supply of electricity from the operation of charging stations for electric vehicles or electric bicycles (Section 9 No. 1 Sentence 3 Letter (b) double Letter (bb) TTA)

3. Income from direct contractual relationships between real estate or housing companies and their tenants/lessees from activities other than those referred to in Section 9 No. 1 Sentence 3 Letters (a) and (b) TTA (Section 9 No. 1 Sentence 3 Letter (c) TTA).

III. Treatment of income from the operation of combined heat and power plants

IV. Calculation of amounts (as a percentage) considered as harmless under Section 9 No. 1 Sentence 3 Letters (b) and (c) TTA

Source:

Identical decrees of the highest tax authorities of the Federal States dated 17 June 2022, published on 20 June 2022

Keywords

electric mobility, extended trade tax deduction, renewable energy, tax incentive, trade tax