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By PwC Deutschland | 05 August 2022

Ministry of Finance: Draft Finance Bill 2022

On 28 July 2022, the Federal Ministry of Finance (MoF)) sent its draft of a Finance Bill 2022 to the industry associations with a request for comments by August 11.

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There is an increasing need for an update in legislation on various aspects in German tax law. This concerns adjustments for an improved digitization, procedural simplification, to secure legal continuity and fairness in taxation, and implementation of a number of issues included in the coalition agreement. Adjustments to EU jurisdiction and ECJ case law are also necessary, as well as realigning present tax legislation with respect to recent case law of the Federal Constitutional Court and the Supreme Tax Court.

Here is a brief summary of selected adjustments and changes included in the draft:

Adjustments on the taxation of payments for rights registered in a German register (Sec. 49 German Income Tax Act): It is envisaged to abolish to a large extent the so called “register cases” in the future, and retroactively as far as register cases for third-party licenses are concerned. Exception: Sec. 10 of the Tax Haven Defense Act which is aimed to prevent tax avoidance and unfair tax competition - “*Steueroasen-Abwehrgesetz*” and which foresees stricter withholding tax measures on certain types of income paid to persons who are resident in tax havens. - For further information regarding the register cases, we refer to our ***tax + legal newsflash***.

The ***maximum income tax cap of 42% exclusively for income from trade or business*** will be abolished. This is necessary to implement the guidelines set by the German Federal Constitutional Court in its decision of 8 January 2022 (see our **blog post of 14 January 2022**).

Establish legal grounds for the ***development of a direct payment system*** by using the personal tax ID number (Sec. 139b Fiscal Code) to ensure that ***public funds are distributed equally*** to all citizens in a way that is both unbureaucratic and safe from misuse.

Adjustment of the ***deferral rules for contribution of business units to a company*** (i. e. contribution of a business, business segment or partnership share or a 100% interest in a corporation at continued book value or intermediate value) to the uniform deferral rules for EU/EEA cases and third-country cases. These were introduced by the ATAD Implementation Act and included into Sec. 6 (4) of the Fiscal Code ("Abgabenordnung"): Accordingly, the tax due may – upon request and if several conditions are met - be paid in seven equal annual installments with no late payment interest to be charged and if sufficient guarantee / security is provided.

Increase of the straight-line depreciation rate to 3 percent for residential buildings completed after 31 December 2023.

Adjustments in real estate valuation to comply with the Real Estate Valuation Directive (REVD) of 14 July 2021 which is in force since 1. January 2022. The REVD is designed to ensure in a most effective way that the determination of standard land values and all other data required for the valuation is carried out nationwide and in accordance with uniform principles.

Other individual taxes:

Full personal deduction for ***contributions to old-age pension schemes*** from 2023 (which are presently only tax deductible up to a certain maximum amount).

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Increase of the lump-sum savings allowance to €1,000 (for singles) and €2,000 (married couple/ registered life partnership).

Increase of the education allowance to € 1,200.

Improvements of the procedures regarding the so called ***"Riester subsidies" / the "Riester pension scheme"***, which is a state-subsidized form of private pension provision.

Tax exemption of the basic pension supplement (the basic pension supplement - "*Grundrentenzuschlag*" - is an individual top-up for low-income pensioners granted to those who have worked long hours and earned below average).

Amendments with regard to Value Added Tax (VAT):

Transposition of COUNCIL DIRECTIVE (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards the ***introduction of certain requirements for payment service providers*** into national law.

Implementation of the Online Access Act and the commitment to electronic availability via administrative gateways into national law. Under the Online Access Act ("*Onlinezugangsgesetz*") local governments are required to provide all administration services in digital form via their administration portals.

Source:

MoF, Draft Finance Bill 2022 - current state of progress: 28 July 2022.

Keywords

Finance Bill, Licensing rights