

By PwC Deutschland | 20 December 2024

Tax & Legal Newsflash

On December 19, 2024, the European Court of Justice (CJEU) held, that it breaches the free movement of capital under Art. 63 TFEU, if WHT is refunded only to residents being in a loss-making position whereas a refund is not granted to non-residents being in a foreign loss-making position (case C-601/23, Credit Suisse Securities (Europe) Ltd. vs. Diputación Foral de Bizkaia).

This judgment confirms, on the hand, the validity of the decision in the Sofina case (C-575/17, November 22, 2018) for which it was unclear whether it established general principles of CJEU jurisprudence for the future. On the other hand, the current judgment extends the Sofina principles to cases where WHT is also withheld on dividends paid to domestic recipients.

CJEU judgment regarding WHT refund in case of non-residents with foreign losses

Keywords

Gesetzgebung, legislation