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By PwC Deutschland | 04 October 2025

Redemption of gold warrant certificates taxable as capital investment income

Regarding the redemption of so-called gold warrants, the Supreme Tax Court decided that taxation as „other claims from capital investments“ within the meaning of Section 20 (1) No. 7 Income Tax Act cannot be ruled out on grounds that the holder of the capital claim has the right to demand fulfillment by means other than cash. If the holder exercises this option, the transaction constitutes a taxable redemption and is treated as income from capital investment.

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I. The focal point in the court proceedings:Section 20 Income Tax Act (ITA)

The specific **legal parameters** of interest in the case of dispute are to be found in Section 20 para.1 no. 7 and para. 2 sentence 1 no. 7, para. 2 sentence 2 and para. 4a ITA.

Section 20ITA: *Income from capital investments also includes*…

… income from other capital claims of any kind if the repayment of the capital investment or remuneration for the transfer of the capital asset for use has been promised or paid, even if the amount of the repayment or remuneration depends on an contingent event **(Section 20 para. 1 no. 7).**

Section 20 para. 2 sentence 1no. 7: Income from capital investments also includes profits from the sale of other capital claims of any kind as defined in para. 1, number 7.

Section 20 para. 2 sentence 2: Redemption, repayment, assignment, or hidden contribution to a corporation shall also be deemed to be a sale within the meaning of sentence 1 (…).

Section 20 para. 4a sentence 3: If, in the case of other capital claims within the meaning of paragraph 1, number 7, the holder has the right to demand delivery of securities (...) from the issuer instead of payment of a sum of money at the due date, or if the issuer has the right to offer such securities to the holder instead of payment of a sum of money when the claim falls due (...), the consideration for the acquisition of the claim shall, on the one hand, be regarded as the sale price of the claim and, on the other hand, as the acquisition cost of the securities received; sentence 2 shall apply mutatis mutandis (i.e., the consideration shall be regarded as taxable income).

II. Background

A gold warrant is an option certificate (derivative security) that entitles the holder to buy or sell a quantity of gold at a predetermined price (strike price) before a specified expiry date.

In 2015, the year of dispute 2015, the plaintiff acquired several “BEAR EUR Convertible Certificates on Gold.” These certificates granted the holder the option to receive either a cash amount or a gold warrant depending on the performance of the gold price. The gold warrants were either for a cash payment or for credit of gold to the plaintiff's metal account. The plaintiff chose to purchase the warrants once the BEAR certificates matured. At that point in time, he chose to have the gold credited to his account and sold it the following year. The tax office considered this to be a taxable gain.

The tax court of first instance partially upheld the appeal of the plaintiff. Although the plaintiff did not make a profit from the sale of the BEAR certificates, the court held that a profit from the redemption of the gold warrants is nevertheless subject to income tax according to Section 20 (2) sentence 1 no. 7, (2) sentence 2 and (4) ITA.

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III. Decision

First, the Supreme Tax Court confirmed that the settlement of the BEAR certificates by entry of the warrants in the plaintiff's securities account is tax neutral. The BEAR certificates securitized other capital claims within the meaning of Section 20 (1) No. 7 ITA. If a securitized capital claim is settled in a manner other than by cash payment as agreed, this transaction is regarded as a redemption.

Since the warrants are securities, Section 20 (4a) sentence 3 ITA applies with regard to the determination of the profit from the redemption of the BEAR certificates. Thus, the plaintiff's payment for the acquisition of the BEAR certificates is recognized as income, and, due to equal acquisition costs and in deviation from Section 20 (4) sentence 1 ITA, no redemption profit occurs.

The credit of gold to the plaintiff's metal account after the warrants were exercised also constituted a redemption of other capital claims within the meaning of Section 20 (2) sentence 2 ITA. The term “redemption” also includes granting a claim for delivery in kind of physical gold insofar as this settles the capital claim and causes it to cease to exist.

As a result, a taxable gain upon redemption equal to the difference between the market value of the troy ounces of gold credited to the metal account and the acquisition cost of the warrants must be recognized. In the case of dispute, the plaintiff thus achieved a taxable redemption gain of some €25,297,000, the Supreme Tax Court said.

Source:

Supreme Tax Court, decision of 3 June 2025 VIII R 5/24- - published on 2 October 2025.

Keywords

capital investment income, commodity warrant