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Taxation rules for the income of a seafarer on board a vessel engaged in domestic maritime transport

In its judgment of 9 April 2026 – VI R 1/24, the Supreme Tax Court ruled that, under the Agreement for the Avoidance of Double Taxation concluded between the Republic of Cyprus and the Federal Republic of Germany (Cyprus DTA 2011), Germany had, as the state of residence, the right to tax the employment income of a German resident employee, who was working on board a vessel engaged in domestic maritime transport. Furthermore, it clarified that a 'vessel engaged in inland waterway transport' within the meaning of the Cyprus DTA 2011 is only one that operates exclusively on inland waterways situated within the mainland.

Background

The plaintiff and appellant (the plaintiffs) was resident in Germany and jointly assessed for income tax in the year under dispute (2017).

In the year under dispute, the plaintiff was employed on the vessel A — a passenger ferry operating between Hamburg and a German North Sea island — which sailed under the Cypriot flag. The plaintiff's employer under civil law was B Limited, with its registered office in the Republic of Cyprus (Cyprus). The owner of vessel A was C Limited, which also has its registered office in Cyprus. It had chartered the vessel, including the crew, to D during the year in question.

The ferry route lay entirely within the 12-mile zone defined by Articles 2 and 3 of the United Nations Convention on the Law of the Sea of 10 December 1982 and ran initially along the River Elbe and then through domestic coastal waters to the German North Sea island.

D's local tax office issued D with a preliminary ruling pursuant to Section 42e of the Income Tax Act (ITA), according to which the remuneration of the crew of the vessel A was to be taxed exclusively in Cyprus under Cyprus DTA 2011.

Consequently, B Limited did not make any tax deductions from the plaintiff's wages. Under Cypriot law, the plaintiff's income was tax-exempt there. In his income tax return for the year in question, the plaintiff declared his salary as tax-exempt in this respect.

The plaintiff's local tax office subjected the plaintiff's income from employment in full to income tax, on the grounds that the right of taxation lay with Germany.

Judgment

Germany has the taxing right as, according to the binding findings of the Tax Court, the plaintiff carried out his work solely in Germany (Article 3(1)(a) Cyprus DTA 2011), as vessel A operated exclusively within the 12-mile zone forming part of German territory.

Germany's right to tax is not precluded by the special provision in Article 14(4) Cyprus DTA 2011. According to this provision, remuneration for employment carried out on board a seagoing vessel or aircraft **engaged in international traffic**, or on board a vessel **engaged in inland waterway traffic**, may only be taxed in the Contracting State in which the place of effective management of the enterprise is situated. As the plaintiff did not carry out his work either on board a seagoing vessel engaged in international traffic or on board a vessel engaged in inland waterway traffic, Germany retains the exclusive right of taxation.

The plaintiff did not carry out his work on a seagoing vessel **engaged in international traffic.** Since vessel A was operated exclusively between locations within Germany during the year in question, without any international calls, there was clearly no operation in international traffic.

Furthermore, the lower court was also correct in concluding that the plaintiff was not working on board a

‘**vessel engaged in inland waterway transport**’, as the vessel A did not operate solely on inland waterways but also at sea. The Supreme Court further confirmed the lower court was correct in assuming that the term ‘vessel engaged in inland waterway transport’ as used in the Cyprus DTA refers to a vessel that operates exclusively on inland waterways situated within the mainland, that is, on rivers, canals and lakes.

Both parties accepted that preliminary ruling pursuant to Section 42e of the Income Tax Act was not binding.

Source:

Supreme Tax Court decision (VI R 1/24) of 09.04.2026

Keywords

double tax treaty, income tax exemption