



Global Tax Update

Germany

Deloitte Tohmatsu Tax Co.

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1. BFH rules on requirements for company addresses on Invoices

In a decision dated 22 July 2015, Germany's Federal Tax Court (BFH) ruled that merely using a P.O. box on an invoice does not meet the German VAT (Value Added Tax) invoicing requirements and, therefore, VAT taxpayers may not deduct input VAT from invoices that only display the supplier's P.O. box address.

The BFH clarified that the full address of where the supplier carries out its business activities must be included on the invoice. The court also stated that the same rule applies to the address of the recipient of the supply.

The German tax authorities currently allow an invoice to contain only a P.O. box, and it is unclear whether the authorities will follow the BFH recent decision.

However, to avoid the potential risk that an input VAT deduction refund will be denied, companies should not use P.O. box addresses on invoices.

2. Minimum shareholding for participation exemption for capital gains from the sale of shares unlikely to be introduced

Contrary to an earlier draft of Germany's new investment act, it seems likely that an announced new draft of the act will not include a 10% minimum shareholding requirement to qualify for

the 95% participation exemption for capital gains from the sale of shares.

The introduction of a minimum shareholding requirement has been on the agenda of the German government for some time. Since an analogous rule was introduced to benefit from the participation exemption for dividends (for payments made after 28 February 2013), the German tax authorities have been advocating for the extension of this requirement to capital gains from the sale of shares. The government originally announced that it would introduce such a requirement as part of a broader reform of the investment taxation rules.

It now appears that there is political resistance to this approach and that the next draft of the new investment tax act will no longer include such a requirement. It can be expected that this topic will be subject to further negotiations at a political level.

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