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Ministerial draft bill on the implementation of the Country-by-Country Reporting and further measures

On 1 June 2016, the Federal Ministry of Finance [BMF] published a ministerial draft bill on the implementation of the amendments to the EU administrative assistance directive and further measures against base erosion and profit shifting.

The purpose of the draft bill is to implement measures from the OECD BEPS project on the enhancement of transparency (Country-by-Country Reporting) as well as amendments to the EU administrative assistance directive (exchange of so-called tax rulings). In addition, further tax rules on cross-border matters will be amended in order to enhance the exercise of German taxation rights. In the following we will outline the most important contents of the draft bill:

Implementation of the OECD-recommendation regarding the documentation obligations in the area of transfer pricing

Basically, a three-tiered structure of the transfer pricing documentation – consisting of a master data documentation (Master File), country-specific and enterprise-related documentation (Local File), and country-by-country reports (Country-by-Country Reporting – CbCR) – is being planned. The existing German documentation obligations will be modified with regard to the Master File and the Local File. Furthermore, the CbCR and its automatic exchange between the States will be regulated. In principle, the domestic group parent company is required to prepare the Country-by-Country Report if the group financial statements include at least one foreign enterprise or one foreign permanent establishment and the consolidated sales revenue in the previous fiscal year amounts to at least 750 million Euros. Both the new documentation and the report are to be prepared for the first time for fiscal years commencing after 31 December 2015.

Automatic exchange of information on tax rulings

On 8 December 2015, the automatic exchange of information in the area of taxation was extended by way of an amendment of the EU

Content

administrative assistance directive, according to which information on advance cross-border tax rulings and advance transfer pricing arrangements between internationally related enterprises (so-called tax rulings) are to be exchanged automatically within the EU. The present draft bill is to implement the amended guideline in the EU Administrative Assistance Act. The automatic exchange of information generally extends to advance rulings and advance arrangements that have been issued, made, amended or revised since 1 January 2012.

Trade tax treatment of non-portfolio dividends of a controlled company in a tax group

By means of a new legal regulation, the administrative opinion is to be established, according to which the 5-percent charge pursuant to § 8b Abs. 5 KStG (deemed non-deductible business expenses in the amount of 5% of the dividend payment) is to be applied, for trade tax purposes, also to dividend payments received by a controlled company provided that the controlling entity is a corporation. In its ruling of 17 December 2014 (see April 2015 edition of German Tax Monthly for further details), the BFH had previously decided, that dividend payments received by a controlled company are, for trade tax purposes, not subject to the 5-percent charge. The revision will first be applicable to dividend payments received after 31 December 2016.

Trade tax treatment of the imputed income amount

According to the draft bill, the imputed income amount under CFC rules will be subject to trade tax. In order to avoid a deduction as income from foreign permanent establishments, imputed income amounts will be considered income that accrued in a domestic permanent establishment. Taxation for trade tax purposes will apply irrespective of the fact whether the income was generated through a foreign corporation or permanent establishment. The amendments are a reaction of the legislator to the BFH judgement of 11 March 2015 (see June 2015 edition of German Tax Monthly for further details). The revisions will be applicable as of 1 January 2017. For existing cases, the taxpayer may revert to the above mentioned BFH case-law; in so doing, however, the non-application decree issued by the tax administration on 14 December 2015 is to be observed (see January 2016 edition of German Tax Monthly for further details).

Interpretation of the tax treaty principle of dealing at arm's length

The content of the tax treaty principle of dealing at arm's length (Art. 9 (1) OECD MTC) is to be determined solely in accordance with the national regulations of the Foreign Transactions Tax Law on the arm's length principle. The amendments are planned against the background of the BFH case-law (see April 2015, October 2015 and May 2016 edition of German Tax Monthly for further details), according to which tax treaties overrule the German provision on the arm's length principle.

Revision of the participation exemption for credit institutions, financial services institutions and financial undertakings

Under certain conditions the regulations on the participation exemption are not applicable to credit institutions, financial services institutions and financial undertakings (§ 8b (7) Corporate Income Tax Law – KStG). According to the explanatory memorandum to the act, the regulations have also been used for tax structuring, e.g. in order to claim a tax deduction for profit reductions from shareholdings at the level of a financial undertaking within associated enterprises. This area of application shall henceforth be restricted.

Outlook

The BMF ministerial draft bill constitutes a first legal initiative for the implementation of BEPS measures. Completion of the legislative procedure is expected for the second half of this year. Up to now, the ministerial draft bill with the regulations on the CbCR and the exchange of tax rulings contains only two BEPS implementation measure. Further amendments, in particular in the areas of hybrid mismatch arrangements and CFC taxation will presumably follow in one or several legislative procedures.

Anti Tax Avoidance Directive (ATAD)

The EU Member States have agreed on new rules against tax avoidance practices (Anti Tax Avoidance Directive – ATAD). The ATAD is part of the package of measures that the EU Commission presented on 28 January 2016 to combat tax avoidance at the level of the enterprises. The directive includes legally binding rules against tax avoidance practices (in particular hybrid mismatches, CFC rules, general anti-abuse rule, exit taxation, interest limitation).

Hybrid mismatches (Art. 9 ATAD)

Hybrid mismatches are based on differences in the legal characterization of payments (financial instruments) or companies/permanent establishments between two states. This may result in a deduction in both states (double deduction) or a deduction in one state without inclusion (deduction/no inclusion) in the tax base of the other. It is against this background that the directive provides for a regulation on hybrid mismatches within the EU.

To the extent that a hybrid mismatch results in a double deduction, the deduction shall be given only in the Member State where such payment has its source. To the extent that a hybrid mismatch results in a deduction without inclusion, the Member State of the payer shall deny the deduction of such payment.

The Commission is requested to put forward a proposal by October 2016 on hybrid mismatches involving third countries. These are to be consistent with the rules recommended by the OECD BEPS report on Action 2.

CFC Rules (Art. 7 and 8 ATAD)

The rules on Controlled Foreign Companies (CFC) are laid down against the shifting of income to low tax countries. To this end, the Member States shall include in the tax base (of the parent company) the retained, low-taxed passive income of a controlled foreign company (entities and permanent establishments) even without profit distribution. The directive defines, among others, the terms “control”, “low-taxation”, “passive income” as well as the computation of passive income.

Exit taxation (Art. 5 ATAD)

Exit taxes have the function of ensuring that in cases where a taxpayer moves assets or its tax residence to another state, the built-in gains can be taxed in the exit state even though they have not yet been realized. Hence, the directive regulates the cases of exit taxation, the value to be assigned, as well as the treatment within the EU.

Interest limitation rule (Art. 4 ATAD)

The directive contains rules designed to limit the deduction of interest expenses as business expenses. The system of the rules is basically consistent with the German interest limitation rule. In principle, net interest expenses shall only be deductible up to 30 percent of the earnings before interest, tax, depreciation and amortization (EBITDA). Certain exceptions apply.

General anti-abuse rule (Art. 6 ATAD)

The directive provides for a general anti-abuse rule. It captures arrangements or a series of arrangements which, having been put into place for the main purpose of obtaining a tax advantage that defeats the object or purpose of the applicable tax law, are not genuine. An arrangement or a series thereof shall be regarded as non-genuine to the extent that they are not put into place for “valid commercial reasons” which reflect economic reality.

Outlook

The directive must still be submitted to the Council for formal adoption. The Member States are generally obliged to transpose the directive into national law by 31 December 2018. The rules on exit taxation are to be transposed only by 31 December 2019. If a Member State already has codified rules that are equally effective to the proposed interest limitation rule, it may continue to apply these rules until the end of the first completed tax year following the day on which the agreement at OECD level on a minimum standard regarding BEPS Action 4 will be published on the official website, or until 1 January 2024, at the latest. Since the rules laid down in the directive are merely minimum requirements by the EU Commission, the German legislator could retain existing stricter rules or newly introduce stricter rules. In Germany, a legislative procedure with rules from the EU ATAD is to be expected, at the earliest, in the second half of this year.

Brexit Referendum

In a referendum held on 23 June 2016, the United Kingdom (UK) voted in favor of leaving the European Union (EU). Depending on the future status of Great Britain in relation to the EU, especially if Great Britain is not going to join/stay in the EEA, the following tax implications from a German perspective are, amongst others, conceivable:

- Discontinuation of the **Parent-Subsidiary-Directive** and the **Interest and Royalties Directive** (withholding tax relief on dividends, interest and royalties paid to a parent company/associated enterprise domiciled in the UK). However, the withholding tax might be reduced due to the German DTT with Great Britain (DTT-UK)
- The possibility to pay tax in installments over a period of five years for deemed gains on the transfer of an asset to a British permanent establishment (**Exit taxation**) is no longer available
- Corporations with domestic management and residence in the UK can no longer constitute a controlled company in a **Tax group for income tax purposes**
- Discontinuation of a tax neutral **repayment of contributions** (§ 27 (8) Corporate Income Tax Law - KStG) of a UK

corporation to its German shareholders

- **Participation exemption privilege for trade tax purposes** (§ 9 no. 7 Trade Tax Law – GewStG): application of the stricter requirements for dividends from third countries.
- Restricted application of the **Reorganization Tax Law**, since basically persons or legal entities must be involved in the EU or EEA
- **VAT status change** of the United Kingdom from EU Member State to third country
- With termination of its EU membership, the United Kingdom is no longer part of the **EU Customs Union**. Hence, imported goods from the UK will generally be subject to customs duty.

Law on the Reform of Investment Taxation

On 9 June 2016, the German Bundestag (lower house of the German parliament) adopted the law on the reform of investment taxation (Investmentsteuer-reformgesetz – InvStRefG).

Reform of investment taxation

The law includes a fundamental reform of investment taxation. The new provisions will apply as of 1 January 2018, to make sure funds are given sufficient time to adapt to the new legislation. Compared to the government draft bill (see January/February edition of GTM), changes in the area of investment taxation mostly affect details of the regulation. The new basic structure of the law has largely remained unchanged. Compared to the draft bill, the following significant amendments have been made to income tax law regarding so-called cum/cum trades and the non-resident tax liability in the event of a sale of an interest in a partnership with domestic immovable property.

Restriction on the credit or refund of dividend withholding tax (in so-called cum/cum-trades) pursuant to § 36a EStG-E

The new provision is to exclude avoidance of dividend taxation through so called cum/cum trades. Pursuant to § 36a EStG-E, investors will be allowed to credit withholding tax on German dividends only if they continuously hold beneficial ownership for a minimum holding period, assume a substantial risk of loss in value within this period of time (minimum risk of change in value), and are not obliged to entirely or partially compensate other persons for the income on capital. The minimum holding term is 45 days within a period of 91 days around the dividend record date (so-called minimum holding period). Compared to the draft bill, it has been newly introduced that the beneficial ownership during the 45 days minimum holding period is required to be "continuous" but, in return, legal ownership is not required.

Compared to the draft bill, the minimum risk of change in value was significantly increased from 30% to 70%. In accordance with the explanatory statement to the act, hedging or futures transactions of the taxpayers themselves or through related persons as well as direct and indirect collateralization are detrimental. If the requirements are not fulfilled, the credit of withholding tax on income from capital is limited to 10%-points. This results in a final withholding tax of 15% on the income from capital.

The provisions apply to shares held in collective safe custody as well as to participating certificates held in collective safe custody. Furthermore, the Bundestag extended the scope of application to securities held at a foreign central depository. Certain exemptions apply, e.g. for pension trusts and shareholdings with a minimum holding period of one year. The revisions will be applicable for the first time to income from capital (in particular dividends) having accrued since 1 January 2016 onwards.

Non-resident tax liability in the event of a sale of shareholdings in real-estate partnerships (§ 49 EStG-E)

Non-resident tax liability will be extended to the sale of an indirect or direct shareholding in a partnership owning domestic immovable property or rights (§ 49 (1) no. 2 letter f sent. 2 EStG-E). In so doing, the legislator reacts to a judgment of the Lower Tax Court of Munich of 29 July 2013 (7 K 190/11). In the view of the Court, there is no non-resident tax liability in Germany in the event of a sale of shareholdings in a real estate limited partnership (after expiration of the 10-year speculation period). The revision will enter into force on 1 January 2017.

Outlook

Following the adoption of the law by the German Bundestag, approval by the German Bundesrat is still outstanding. Approval could be given in the next meeting on 8 July 2016.

While the new concept of investment taxation will basically not be applicable before 1 January 2018, the new provisions to restrict the credit of withholding tax on income from capital are applicable as of 1 January 2016 (with retroactive effect).

National Actions against Tax Havens and Mailbox Companies

In response to the publication of the "Panama Papers" the Federal Government announced legislative measures for more transparency in business relationships with tax havens and mailbox companies. At the national level, a fundamental agreement has been reached between the Federal Ministry of Finance (BMF) and the Ministries of Finance of the Federal States on specific amendments of German tax law, in particular of the Tax Procedure Law (AO).

In a press release on 3 June 2016 the BMF published three measures to amend the AO.

- Taxpayers' duties of cooperation are intended to be extended to any kind of business relationship with foreign companies. The amendments are in particular intended to cover fiduciary relationships and similar agreements.
- A new duty to report tax data is intended to be introduced, according to which banks have to notify the tax authorities about the shareholdings/ownership interests in mailbox companies or business relations with mailbox companies that they facilitated or established. Here, the economic beneficiary shall have to be named.
- The tax authorities are intended to be endowed with extended investigation powers, e.g. by means of lifting the tax banking secrecy (§ 30a AO) and by creating unrestricted information possibilities of the Federal Financial Supervisory Authority (BaFin) towards the tax authorities. In addition, tax evasion through undisclosed ownership interests/share-holdings is intended to be added to the list of particularly serious cases of tax evasion.

To date, no bill has been presented. According to a statement of the Federal Government it is to be expected that the bill will have been drafted by fall 2016.

Federal Tax Court (I R 70/14): Thin Capitalization Rule in the Case of Upstream Loans

In a ruling of 28 January 2016, the Federal Tax Court (BFH) decided that the rules governing thin capitalization in force until 25 May 2007 are not applicable to loans that are granted to a corporation by its subsidiaries or sub-subsidiaries (so-called upstream loans).

Pursuant to § 8a Corporate Income Tax Law in the version in force until 25 May 2007 (KStG, previous version), remunerations paid for debt capital (i.e. mainly interest expenses) loaned by substantial shareholders are requalified as constructive dividends in certain cases. Among other requirements this affects in particular remunerations paid for debt capital that are measured based on a fraction of the capital and lie outside the so-called safe haven (§ 8a (1) sent. 1 no. 2 KStG, previous version). This provision also applies to debt capital which the corporation has received from a party related to a substantial shareholder (§ 8a (1) sent. 2 first variant KStG, previous version) or a third party with a right of recourse to the substantial shareholder or the related party (§ 8a (1) sent. 2 second variant KStG, previous version).

In the case at issue, numerous loan agreements existed between the limited liability company A-GmbH resident in Germany - a member of the internationally active A-group - and enterprises belonging to the group, among others with subsidiaries and sub-subsidiaries of A-GmbH. The local tax office arrived at the conclusion that, considering all remunerations for debt capital paid - i.e. including the loans granted by the subsidiaries and sub-subsidiaries - interest expenses for the year under dispute 2004 and for 2005 have to be requalified as constructive dividends, resulting in an increase in income.

According to the BFH, the loans received by A-GmbH from its subsidiaries and sub-subsidiaries do not constitute thin capitalization pursuant to § 8a (1) sent. 1 KStG, previous version. In addition, the BFH holds that no lending by a party related to the substantial shareholder occurred, either. The BFH agrees that § 8a (1) sent. 2 first variant KStG, previous version, refers to § 1 (2) Foreign Transactions Tax Law for a definition of "nahe stehende Person" (related party). This provision qualifies parties (here: subsidiaries and sub-subsidiaries of A-GmbH), in which the taxpayer (here: shareholder of A-GmbH) directly or indirectly (via A-GmbH) holds a substantial share, as related parties. However, the BFH is convinced, in agreement with the prevailing opinion found in the tax law literature, that "related party" within the meaning and scope of § 8a KStG, previous version, may, according to the provision's purpose and intent, not include subsidiaries and sub-subsidiaries of the borrower, A-GmbH.

According to the purpose of the provision, remunerations for debt capital are to be requalified as constructive dividends if they replace an otherwise "open" dividend payment to the substantial shareholders (here: A-GmbH). The assumption in this context is that the substantial shareholders have an influence on the funding ratio of the corporation. In the case of an upstream loan, such a constellation does, however, not apply. From an economic perspective, the financing is not debt financing but financing from A-GmbH's "own funds".

Whether anything to the contrary applies when the substantial shareholder of A-GmbH is itself also - directly (or indirectly via another company but A-GmbH) - a substantial shareholder of the subsidiary or sub-subsidiary, or the lenders have refinanced themselves from the substantial shareholder, was an aspect that the BFH was able to leave open.

Federal Tax Court (I R 49/14): Taxation of Special Partner Business Income under the DTT Spain

In the year at issue, the plaintiff, a domestic partnership, held shares as a limited partner in a partnership (O SC) resident in Spain. Simultaneously, the plaintiff held shares in the partnerships' general partner corporation (O SL). The shareholders of the plaintiff were individuals resident in Germany. The O SL paid a dividend to the plaintiff. The question at issue is whether under the DTT Spain the dividend has to be considered part of the business profits from a foreign permanent establishment and therefore has to be exempt from German tax or whether Germany has the right to tax the dividend and only the Spanish withholding tax has to be credited. The qualification of the dividend as business profit from a foreign permanent establishment requires that the shareholding in the Spanish O SC procures the plaintiff a Spanish permanent establishment to which the shareholding in the O SL is attributable.

The Federal Tax Court (BFH) decided in favor of the plaintiff for an attribution of the dividend to the income from the Spanish permanent establishment and consequently for an exemption from German taxation. It argued that the O SC had to be considered a transparent partnership that itself is not entitled to treaty benefits, but procures permanent establishments within the meaning of the DTT to its shareholders. A different assessment from the Spanish point of view according to which the O SC is qualified as non-transparent and thus itself entitled to treaty benefits does not conflict with the BFH's opinion. The entitlement to treaty benefits only has to be judged from a German perspective, because the qualification of the source country is not binding for the country of residence.

In the opinion of the BFH, the shareholding in the O SL also has to be attributed to the Spanish permanent establishment of the plaintiff procured by the O SC. An argument in favor of this opinion is that the activity of the O SL is limited to the assumption of liability and the management of the O SC, meaning there is a factual functional connection.

Even § 50d (9) Income Tax Law (EStG) does not lead to a different result. This provision prescribes a switch from the exemption to the credit method where due to a qualification conflict income may not be taxed in the other country or only at the limited withholding tax rate provided for in the DTT. When considering the dividend alone this would be the case. Spain only taxes the dividend at the limited withholding tax rate provided for in the dividend Article of the DTT, because it deems the partnership to be non-transparent and therefore does not assume income from a permanent establishment. However, from a German perspective the total income of the plaintiff from the Spanish partnership has to be considered where § 50d (9) EStG applies. This comprises both the actual profit share derived from the shareholding in the O SC and the dividend derived from the O SL which is to be considered special partner business income. Since § 50d (9) EStG is only applicable "where" the other country does not tax the income or only applies a low tax rate and does not expressly contain the wording "to the extent that", it is not possible to split the income into portions that have been taxed and portions that have not been taxed. It is sufficient that Spain exercises its full right to tax the portion of the actual profit share received by the partnership.

The legislator has recognized the issue of the lack of a splitting possibility in the application of § 50d (9) EStG and changed the wording in the current draft bill of the anti-BEPS legislation from "where" to "to the extent that".

Lower Tax Court of Saxony (3 K653/11): Profit Adjustment according to § 1 AStG

In a ruling of 26 January 2016 (ref. no. 3 K 653/11), the Lower Tax Court of Saxony decided that where an interest-free loan is granted to a foreign sister company by a German controlled company in a tax group, a profit adjustment according to § 1 Foreign Transactions Tax Law (AStG) ensues at the level of the common German parent (controlling enterprise).

In the case at issue, a tax group existed in Germany between two corporations. At the same time, the controlling enterprise held a 100 % share in a Polish corporation. An interest-free loan was granted to this Polish corporation by the controlled company.

Where the arm's length principle is observed, a loan can generally not be granted without interest. The lost interest income is first added back increasing the taxable profit at the level of the controlled company (lender). In the triangular relationship at hand, the interest income is then added back as dividend income at the level of the common parent (constructive dividend). However, 95 % of the dividend income is tax-free (§ 8b KStG). Since the parent does not "retain" the interest income but, in a way, "passes it on" to the Polish subsidiary (borrower), an expense is recognized at the level of the parent at the same time. This results in an income amount on the one hand and an expense amount on the other hand at the level of the parent.

The question is, whether the expense is deductible at the level of the parent or has to be adjusted pursuant to § 1 AStG (arm's length principle). The prerequisite for the application of the profit adjustment is, in particular, that a cross-border business relationship exists. A business relationship means, in particular, a contract under the law of obligations.

In the case at issue, the German parent and its foreign subsidiary had not agreed a contract under the law of obligations (loan agreement). Merely the German controlled company had concluded a loan agreement with its foreign sister company.

The Lower Tax Court of Saxony decided that the specificities of the tax group had to be considered when deciding whether such a business relationship existed. According to this approach, the tax group has to be regarded as an economic entity. As a consequence, the existing business relationship of the controlled company with its sister company has to be attributed to the controlling enterprise. Therefore, an income adjustment according to § 1 AStG is possible.

In this context, the Lower Tax Court of Saxony has not decided whether a cross-border transfer for use between sister companies should generally give rise to the assumption of a business relationship between the parent and the company receiving the advantage (even without the existence of a tax group).

The appeal is currently pending at the Federal Tax Court (BFH) (I R 14/16).

Application of § 8c KStG to Losses in the Context of the Imputed Income Amount

The heads of the Corporate Income Tax departments of the Federal Ministry of Finance and of the Ministries of Finance of the Federal States have decided that, when determining the imputed income amount according to the Foreign Transactions Tax Law (AStG), § 8c Corporate Income Tax Law (KStG) (see German Tax Monthly March 2013 for further details) is to be applied both to a current loss and an assessed remaining loss carryforward within the meaning of § 10 (3) sent. 5 AStG (cf. Berlin Senate Department of Finance, 6 Jan 2016 - III A - S 2745a - 3/2013). In the context of the CFC rules, § 8c KStG thus applies already at the level where the income of the controlled foreign company is determined and would therefore lead to the forfeiture of the losses in case of a detrimental change in ownership in the foreign controlled company. For fundamentals of the CFC rules, see German Tax Monthly, January/February 2014.

Federal Ministry of Finance (BMF) finalized the application decree on § 153 Fiscal Code (AO)

In recent years, companies have been increasingly confronted with the question whether mere notification and correction of returns pursuant to § 153 AO is still sufficient, or whether the acting persons must protect themselves against criminal charges and administrative fines by submitting a voluntary disclosure if incorrect tax returns become conspicuous.

In case the taxpayer should become aware of the incorrectness of their tax return and meet their notification and correction obligation pursuant to § 153 AO without undue delay, neither an act of tax evasion nor a reckless understatement of tax was committed, pursuant to the provisions of the application decree, if the perpetrator lacked both intent and recklessness.

The application decree clarifies that not every objective incorrectness suggests the suspicion of a tax crime or tax offence but that the question whether or not there is an initial suspicion of intentional tax evasion or reckless understatement of tax requires careful review by the relevant tax office.

An initial suspicion of intentional tax evasion or reckless understatement of tax cannot be automatically assumed solely on the basis of the amount of the tax effect of the incorrectness of the submitted tax return and the number of the submitted corrections.

The decree mentions that an effective internal control system that serves the purpose of fulfilling tax obligations (Tax Compliance Management System) is in general suitable to rebut an allegation of deliberate intention or gross negligence with regard to incorrect tax returns so that there would "merely" be an obligation to submit a correction pursuant to § 153 AO, even though the fiscal authorities are obliged to examine each case individually. Unfortunately there is no explanation on the requirements for the necessary design and review of a Tax Compliance Management System.

According to the decree, the notification and, in this respect deviating from the discussion draft, the correction pursuant to § 153 AO has to be submitted without undue delay. Depending on the circumstances of the case, however, the correction itself may be submitted at a later date, if the preparation of the documents requires a certain length of time. A mere notification will typically not meet all requirements for a voluntary disclosure so that in this respect the procedure should be agreed in advance with a consultant and, if appropriate, the correction made along with the notification.

In comparison with the discussion draft published in July 2015, the application decree continues to be partially unclear in its wording and offers no explanations on a number of controversial questions.

Publication of the Corporate Income Tax Guidelines 2015

The Corporate Income Tax Guidelines 2015 (KStR 2015) were published in the Federal Tax Gazette (Federal Tax Gazette I, special edition 1/2016, p. 2). If the guidelines do not provide for anything to the contrary, the new KStR are intended to be applicable starting from the assessment period 2015. See German Tax Monthly July 2015 and March 2016 for the content of the new Corporate Income Tax Guidelines 2015.

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