



NEWS INTERNATIONAL SPECIAL EDITION

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Dear Sir or Madam,

For many German companies, placing adverts on online platforms is an important part of their marketing strategy. Facebook, Google etc. thus manage to make billions - in Germany alone - through providing advertising services. Of course, the German tax authorities would be happy to participate in these sales. This is why the introduction of a so-called digital tax has been planned for a long time. This has clearly been going on too long, however, for the more motivated parts of the German tax authorities. With the help of a 'new interpretation' of existing regulations on income tax law, they want to tax advertising services from foreign online platforms right away. However, it is not the internet giants themselves but (to begin with) the German companies who are expected to pay the appropriate source taxes for this. In theory, the companies can then claim the tax paid back from the operators of the online platforms. However, Facebook, Google etc. will not refund the tax voluntarily. In addition, the German companies affected have mostly undertaken to bear any payable source tax themselves, under so-called net clauses.

Nevertheless there is still hope for the German companies affected. The legal opinion held by parts of the tax authorities stands on extremely shaky ground. It is argued that the advertising services provided are a transfer of use of knowledge or skills, meaning that the companies for whom the advertising services are being provided are obliged to deduct and pay tax. In our estimation, however, no knowledge or skills are transferred to the companies by the foreign online platforms. Instead, Facebook, Google etc. keep their

In addition, the legal situation is also not undisputed in the tax authorities themselves. According to media reports, the relevant cases are being kept open for the time being and assessments have not (yet) been enforced. Co-ordination at "Bund-Länder-Ebene" is also planned and this could drag on until the summer. Nonetheless, the companies affected should check their obligation to pay source tax and, if necessary, file appropriate tax returns to the Federal Central Tax Office, in order to avoid administrative or even criminal sanctions. At the same time as filing the returns, a objection should be filed and an application made for a suspension of implementation.

In most cases, Germany is not entitled to any right of taxation at all according to the relevant double taxation agreement. For future payments, therefore, it is worth making an application for exemption. In addition, in "cases of minor tax importance", it is possible to apply for participation in the much simplified "Kontrollmeldeverfahren". Cases of minor tax importance are cases where individual payments do not exceed EUR 5,500 and payments made within a calendar year come to no more than EUR 40,000 in total.

Get in touch with us if you have any questions regarding your tax obligations when using advertising services on the internet - we will be happy to advise and support you!

Best regards

algorithms top secret and use these exclusively for themselves in order to provide a service for their customers.



Prof. Dr. René Schäfer



The author

Prof. Dr. René Schäfer

Tax Advisor, Specialist Advisor for International Tax Law, Managing Partner

Dr. René Schäfer completed his degree in Business Administration at Saarland University in Saarbrücken in 1999 as a Business Administrator. At the same time, he received the Diploma of the Ecole Supérieure de Commerce, Lyon after one year of study in France.

In July 2007, Dr. Schäfer was made a person with full commercial power of attorney and on January 1st, 2011, he was accepted as a partner.

In 2003, he received a doctorate at the Chair for Business Management Studies, particularly Business Taxation from Univ. Prof. Dr. Heinz Kussmal on the subject of "Taxation of a German-French company". Dr. Schäfer completed the examination for Tax Advisor in 2005. Since 2008, he has also possessed the title of "Specialist Advisor for International Tax Law".

In July 2015, he was made an Honorary Professor in the subject of Business Administration at the Saarland University.

Specialisation

International tax law /
Corporate reorganisation tax law /
Transaction consultancy

In mid-February 2005, Dr. Schäfer began working as an employee in the tax department of DORNBACH GmbH, Saarbrücken branch.

Contact

DORNBACH GmbH, Saarbrücken
Phone +49 (0) 681 8 91 97 - 34
Fax +49 (0) 681 8 91 97 - 17
Mail rschaefer@dornbach.de

Company presentation



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Publisher: DORNBACH GMBH, Auditing, Tax consulting,
Anton-Jordan-Straße 1, 56070 Koblenz, Telefon +49 (0) 261 94 31-438, E-Mail: international@dornbach.de

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