



NEWS INTERNATIONAL

E-MAIL NEWSLETTER
Fourth edition of 2020

Dear Sir or Madam,

Trusts are popular above all in Anglo-American countries. In general, assets are segregated during succession planning and administered by a person (trustee) for the benefit of beneficiaries. German civil law does not recognise this legal institution, and its classification into German tax law is highly complex, making it prone to controversy.

Section 15 of the German Foreign Tax Act is applicable to certain trusts. The provision, also known as the “immigration blocker”, potentially results in all the trust’s revenues - regardless of whether pay-outs from the trust also take place - being primarily attributed to the settlor and subject to income taxation there. When only people who are current or remainder beneficiaries have unrestricted tax liability in Germany, the revenues are attributed to them, in accordance with their share. Subsequent actual pay-outs are in general not subject to income tax a second time, but are subject to gift tax. This was, at least, the ruling recently made by the Munich Fiscal Court on 15 May 2019 (4 K 2033/16).

Objection against this ruling was filed with the Federal Fiscal Court, reference: II R 31/19.

We therefore recommend the submission of an objection against any assessments and requesting suspension of implementation as a precaution.

Hope is also supplied by a recently published ruling of the BFH (Federal Fiscal Court) on 3 July 2019 (II R 6/16) relating to grants from foreign foundations. These - like those from trusts - are only subject to gift tax when they are made to intermediate beneficiaries. The BFH “concretised” its previous ruling on the matter: only those who have rights to the assets or the income can be intermediate beneficiaries. However, this is often not the case with regard to trusts.

It remains to be seen whether the ruling can also be applied to trusts. In any case, our recommendation is to submit an objection against any assessments.

Please feel free to contact us with any questions regarding trusts. We are happy to advise and support you at any time!

Best regards

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 2003, he received a doctorate at the Chair for Business Management Studies, particularly Business Taxation from Univ. Prof. Dr. Heinz Kussmaul 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 in International Tax Law".

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

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 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

Contact

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

Company presentation



DORNBACH is a modern, client-oriented accounting and management consultancy firm with a history stretching back over 60 years.

Our staff of over 400 highly motivated and highly trained employees are at the very heart of our philosophy designed to provide a broad-ranging portfolio of services of unparalleled excellence.



This newsletter is provided by DORNBACH-group.
Detailed information on the group companies can be found here:

IMPRINT



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

The newsletter is intended to provide general information on selected topics for our clients.
Concrete action should not be taken without advice from your DORNACH consultant.
If you want to cancel your subscription, [please click here](#).

Copyright 2020 DORNACH. All rights reserved.

The newsletter is not displayed correctly? [Please click here](#).