



NEWS INTERNATIONAL

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Dear Sir/Madam,

The German real estate market has been booming for years. Accordingly, foreign investors have also turned their attention to Germany. However, this development goes hand in hand with the realisation that German tax law does not fully cover the numerous structures of real estate investments by foreign investors. The legislator is reacting and gradually closing these gaps.

With the "Jahressteuergesetz 2018" [annual tax act 2018], the legislator wants to react to further gaps. Insofar as foreign investors invest in German properties via a limited liability company with its registered office and place of management abroad, a large number of double taxation agreements provide for the right to tax the profit from the sale of shares in the foreign limited liability company. However, Germany cannot in practice exercise this right of taxation since the Income Tax Act does not cover this case in the context of the limited tax liability. The right to tax assigned to Germany therefore comes to nothing.

This gap is also to be closed in the future. Profits from the sale of shares in limited liability companies with their registered office and place of management abroad are also to be recognised within the scope of the limited tax liability if the investment essentially amounts to at least 1% and more than 50% of the share value at any time 365 days prior to the sale is indirectly or directly based on domestic immovable assets.

The change in the law shows once again that the taxation of property transactions in Germany is in a state of flux. Against this background, it is also advisable to review existing property structures for their tax advantages. With DORNBACH you have the right contact at hand.

Best regards

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The author

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Company presentation



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