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To all
clients

Circular
No. 40/2025

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Subject: No PEX for dividends from minor shareholdings of up to 10% from 2026

The business model has become very widespread in the meantime: entrepreneurs hold the shareholding in their company through a limited liability company (GmbH), collect dividends from their business through that company and invest part of them in listed shares – entirely in line with the generally praised principle of risk diversification. Both dividends and capital gains, the latter provided that the 12-month holding period is complied with, are 95% exempt from tax at the level of the holding company and taxed only to the extent of 5% (tax burden of 1.2%), and only upon distribution of the dividends to the individual does the 26% withholding tax become applicable. If the shareholding is held in a partnership or in a sole proprietorship, it is currently exempt from income tax to the extent of 60%, 50.28% or 41.86%.
The purpose of this arrangement, generally referred to as the participation exemption privilege, is to prevent dividends from being taxed several times merely because they are held through a company. In the past, such double taxation was avoided by crediting the corporate income tax at the level of the shareholder; this system was abandoned years ago and replaced by the above exemption. For the sake of completeness: taxation at the current level of 5% is also entirely in the interest of the shareholder, since in the event of a full exemption the proportionate overhead costs would no longer be deductible.

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This exemption is now set to come to an end, at least wherever the shareholding from which the dividends derive does not represent at least 10% of the company's capital. This is what the draft Budget Law for 2026 provides. Capital gains, by contrast, are to continue to be taxed only to the extent of 5%, provided that the 12-month holding period is met.
If the 10% threshold is not reached, the plan is as follows: where shares or GmbH interests are held in a limited liability company, a further 24% IRES must be paid on distributed dividends, on which tax has already been paid once, and upon distribution to the individual shareholder the 26% withholding tax applies once again. Of an original profit of 100, the shareholder is therefore left with a meagre 42.74 euro.
Critics of the reform object that throughout Europe such double taxation is avoided either by a credit method or by a partial exemption. The government's strong counter-argument: expected additional revenue of around 11 billion euro per year. It is likewise argued that the relevant EU provisions permit a double burden below a shareholding threshold of 10%.

In recent days, voices have been raised in favour of ultimately reducing the above threshold from 10% to 5%. This would probably help those who hold larger companies in free float, whereas those who invest on the stock exchange will only very rarely reach the 5% threshold. A further easing could come about by linking full taxation to a holding period, in the sense that, for example, the exemption is granted only if the relevant interests are held for at least 12 months. Incidentally, according to the current wording, the new rules are to apply only to dividends whose distribution is resolved from 1 January 2026 onwards. Distributions resolved during the current year are to remain subject to the old rules and thus remain 95% exempt, even if payment is not made until next year.

The Budget Law has not yet been approved, and there will certainly be amendments to the current draft. Nevertheless, it must be assumed that the additional burdens outlined above will in all likelihood materialise in a more or less mitigated form, since the State's net new borrowing must remain below 3% of GDP.

Should you be directly affected by the planned reform, please contact us so that consideration may, where appropriate, still be given to the measures to be taken.

Yours sincerely
Josef Vieider