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German Tax and Legal News

Brexit: Possible implications on German insurance tax

Under certain conditions, the German Insurance Tax Act (VersStG) levies an insurance premium tax (IPT) of 19% on certain insurance fees. The IPT is economically paid by the insured party, but the actual payment to the tax authority is usually made by the insurance company. However, depending on the outcome of negotiations regarding the "Brexit" the obligation pay the taxes might shift from the insurance company to the insured party.

Background
On June 23, 2016, the UK voted to leave the European Union. As a result, from the date of secession (which may take two years or longer), changes with regard to the obligation to pay German insurance tax may occur.

Legal framework
Under the German Insurance Tax Act (VersStG), an insurance premium tax (IPT) of 19% is levied on insurance fees paid to an insurance company for insurance contracts that cover risks in relation to Germany as defined by law. This includes insurances for assets located in Germany as well as for other risks related to German operations (like professional liability). IPT also applies in case of foreign companies operating via local branches and even if the insurance company is not resident in Germany.

With regard to IPT, the law differentiates between two tax payers. On the one hand, the person or entity contracting with an insurance company (insured party) is considered to be a tax payer. This tax payer has to economically pay the insurance tax. On the other hand, the insurance company is also considered to be a tax payer as it is responsible for the actual payment of the insurance tax billed to the insured party to the tax authorities. This way, the insured party is generally not responsible for the actual payment of the tax.

Nevertheless, a responsibility of the insured party to actually and not just economically pay insurance tax to the tax authorities can emerge under the VersStG if neither the insurance company nor an agent authorized by it to receive the insurance fees, have their abode, seat or a permanent establishment in the European Union (EU) or the European Economic Area (EEA). In this case, the law shifts the obligation to actually pay the taxes from the insurance company to the insured party.

This shift of the obligation involves further administrational efforts like the calculation, declaration and finally the payment of insurance tax to the tax authorities within 15 days from the month in which the insurance fee has been paid.

Brexit implication
With regard to the abovementioned outcome of the referendum and although the state of the relationship between the UK and the EU after the secession is unknown yet, insured parties should check their insurance contracts: If they have concluded contracts that cover risks in a relation to Germany and the respective insurance companies are currently based solely in the UK, this bears a risk of becoming responsible for the actual payment of insurance tax in Germany once the UK has ceased its membership in the EU and the EEA. Please note that in the event of the UK remaining a part of the EEA like Norway, Iceland and Liechtenstein, the abovementioned shift of the actual payment obligation does not occur.

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