

28. March 2024

GOOD THINGS COME TO THOSE WHO WAIT? - BVERFG GIVES (PARTIAL) GREEN LIGHT FOR INCOME TAX-NEUTRAL TRANSFER OF ASSETS BETWEEN SISTER PARTNERSHIPS WITH IDENTICAL SHAREHOLDINGS

ON 12 JANUARY 2024, THE FEDERAL CONSTITUTIONAL COURT (BVERFG) PUBLISHED ITS LONG-AWAITED DECISION OF 28 NOVEMBER 2023 (CASE NO. 2 BVL 8/13), IN WHICH IT DECLARED THE PROVISION OF § 6 PARA. 5 SENTENCE 3 ESTG (GERMAN INCOME TAX ACT) TO BE PARTIALLY INCOMPATIBLE WITH THE GENERAL PRINCIPLE OF EQUALITY UNDER ART. 3 PARA. 1 OF THE GERMAN CONSTITUTIONAL LAW, I.E. TO THE EXTENT THAT A TRANSFER OF ASSETS BETWEEN SISTER PARTNERSHIPS WITH IDENTICAL SHAREHOLDINGS AT BOOK VALUE IS EXCLUDED. THE DECISION PROVIDES A CERTAIN DEGREE OF LEGAL CERTAINTY IN PRACTICE, BUT DOES NOT ANSWER ALL OPEN QUESTIONS REGARDING THE TRANSFER OF BOOK VALUES BETWEEN PARTNERSHIPS WITH IDENTICAL SHAREHOLDINGS. ([more...](#))