

18. December 2017

## **IN GENERAL, SHAREHOLDER LOANS ARE NOT TAKEN INTO ACCOUNT AS SUBSEQUENT ACQUISITION COSTS WITHIN THE SCOPE OF SECTION 17 ESTG ANYMORE**

BY ITS JUDGMENT OF 11 JULY 2017 - IX R 36/15, THE GERMAN FEDERAL FISCAL COURT (BFH) HAS FUNDAMENTALLY CHANGED ITS JURISDICTION REGARDING THE CLASIFICATION OF EQUITY-REPLACING FINANCIAL AIDS OF SHAREHOLDERS TO THEIR COMPANY AS ACQUISITION COSTS WITHIN THE SCOPE OF SECTION 17 OF THE GERMAN INCOME TAX ACT (ESTG). FINANCIAL AIDS ARE, FOR EXAMPLE, SHAREHOLDER LOANS OR GUARANTEES. IN PRINCIPLE, THEY WILL NO LONGER BE TAKEN INTO ACCOUNT WHEN CALCULATING THE DISPOSAL GAIN OR LOSS PURSUANT TO SECTION 17 ESTG. SINCE DEFAULTS ON SHAREHOLDER LOANS ARE NOT TAKEN INTO ACCOUNT WITHIN THE SCOPE OF SECTION 20 ESTG THE NEED FOR CONTRACTUAL CONSTRUCTIONS WITH RESPECT TO TAX ISSUES, E. G. BY AGREEING ON A SUBORDINATION, IN CASE OF GRANTING FINANCIAL AIDS TO THE COMPANY IS MORE URGENT THAN EVER. [\(more...\)](#)