

1. October 2021

BFH COMMENTS AGAIN ON THE TAXATION OF MANAGEMENT PARTICIPATION PROGRAMS

AS ATTRACTIVE AS MANAGEMENT PARTICIPATION PROGRAMS MAY BE AS A FINANCIAL INCENTIVE TO INCREASE THE WILLINGNESS OF EXECUTIVES TO PROVIDE HIGH PERFORMANCE, A CERTAIN DISSATISFACTION QUICKLY ARISES DUE TO THE UNCERTAIN TAX CONSEQUENCES. THIS IS BECAUSE IT IS OFTEN DIFFICULT TO GIVE A LEGALLY SOUND ANSWER DUE TO DIFFICULTIES IN THE QUALIFICATION OF INCOME. THE QUESTION IS WHETHER SUBSEQUENT INCOME FROM THE SALE OF THE SHARES CONSTITUTES FULLY TAXABLE INCOME FROM EMPLOYMENT OR INCOME FROM CAPITAL INVESTMENT. IN TWO FURTHER DECISIONS, THE FEDERAL FISCAL COURT (*BUNDESFINANZHOF* - BFH) CONFIRMS ITS LEGAL OPINION AND FOR THE FIRST TIME ALSO COMMENTS ON SO-CALLED SWEET EQUITY STRUCTURES. [\(more...\)](#)