

4. April 2022

## **SPECIAL TAX FEATURES AND PITFALLS IN THE TAXATION OF MANAGEMENT BONUSES OF CONTROLLING SHAREHOLDER-MANAGING DIRECTORS OF A GMBH**

IN ADDITION TO THE ARM'S LENGTH PRINCIPLE, THE DECISIVE FACTOR FOR THE RECOGNITION FOR TAX PURPOSES OF LEGAL RELATIONSHIPS BETWEEN A SHAREHOLDER AND "HIS" GMBH (GERMAN LIMITED LIABILITY COMPANY) IS THE RESPECTIVE SHAREHOLDER'S ABILITY TO EXERT INFLUENCE. IN A RULING DATED 12 JULY 2021, CASE NO. VI R 3/19, THE GERMAN FEDERAL FISCAL COURT (*BUNDESFINANZHOF* - BFH) CONSOLIDATED ITS PREVIOUS CASE LAW ON THE TAXATION OF MANAGEMENT BONUSES OF A SOLE SHAREHOLDER OF A GMBH. WE WILL TAKE THIS AS AN OPPORTUNITY TO TAKE A CLOSER LOOK AT THE TAX TREATMENT OF LEGAL RELATIONSHIPS BETWEEN A GMBH AND ITS CONTROLLING SHAREHOLDER-MANAGING DIRECTOR, WITH A PARTICULAR FOCUS ON THE TAXATION OF MANAGEMENT BONUSES.

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