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ESOP TAXATION - GERMAN FEDERAL FISCAL COURT OPENS UP SCOPE FOR THE TAXATION OF STOCK OPTIONS IN CONNECTION WITH A CHANGE OF RESIDENCE

IN THE “WAR FOR TALENTS”, START-UPS OFTEN RELY ON EMPLOYEE STOCK OPTION PLANS (ESOPS) TO ATTRACT MOTIVATED AND HIGHLY QUALIFIED EMPLOYEES AND RETAIN THEM IN THE LONG TERM, AS SALARIES ARE USUALLY NOT COMPETITIVE. AN ESOP USUALLY RUNS FOR SEVERAL YEARS AND THE EMPLOYEE’S CIRCUMSTANCES CAN CHANGE DURING THIS PERIOD. SUCH A CHANGE IN CIRCUMSTANCES IS ALSO THE CAUSE FOR THE RULING OF THE GERMAN FEDERAL FISCAL COURT (BFH) OF 21 DECEMBER 2022, CASE NO. I R 11/20, WHICH DEALS WITH THE TAXATION OF STOCK OPTIONS IN THE EVENT OF A CHANGE OF RESIDENCE. THIS CROSS-BORDER CASE PROVIDES AN OPPORTUNITY TO TAKE A CLOSER LOOK AT THE GENERAL TAX TREATMENT OF ESOPS AND, AT THE SAME TIME, TO HIGHLIGHT ANY POTENTIAL FOR TAX STRUCTURING. [\(more...\)](#)