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Are you already making tax optimised investments?

Attachement

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Investment in private assets

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Selected advantages and disadvantages

\+ **Final taxation** (27.5% capital gains tax; 25% capital gains tax for interest on savings accounts and giro accounts)
- Always applies for
  - Securities deposited in **domestic custody accounts**
  - Distributions of profits of domestic GmbHs [limited liability companies] (in contrast, for example, the sale of domestic limited liability company shares is subject to declaration despite the domestic reference) !)
- In the case of final taxation, there is no further (tax) obligation to declare

\+ Non-taxable old assets can be sold free of capital gains tax (otherwise 27.5 % capital gains tax irrespective of retention period and extent of participation - "capital gains tax")

\+ No reporting obligation

\+ Investment option (optional application of the income tax rate instead of capital gains tax; this is only useful for low income)

– **Loss relief options**
- **No loss carryforward** (losses realised in a calendar year can only be compensated with positive income from the same calendar year) - check and, if necessary, planning at the end of the year!
- Not all positive income can be used for loss relief ("loss pots")
- Loss relief over all securities accounts can only be brought about via tax return (loss relief option)

– Income tax liability (progressive income tax rate) for non-taxed (interest) income

– **Gross taxation:** Income-related expenses approach (consulting fees, incidental acquisition costs etc.) is not permitted

– With very active trading risk of commercial securities trading

Investment in limited liability companies

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Recommendations and selected advantages

! Limited liability companies are particularly attractive for tax purposes
- For holding domestic investments, if the resulting distributions are to be accumulated
- For holding international intercorporate shareholdings

+ **Investment income** (dividends) is generally **tax-free**
  - Domestic dividends tax free
  - Foreign dividends are usually also tax-free (but any foreign withholding tax as a liability)
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+ **Capital gains** from **international intercorporate shareholdings** are generally tax-exempt
  - International intercorporate shareholdings = at least 10 % share in a foreign stock corporation held for at least one year
+ Other income is generally subject to 25 % corporation tax at the time of realisation
+ Loss relief
  - Already unrealised price reduction leads to loss (if there is a "participation" to be distributed over 7 years)
  - No time limit
  - No categories (schedules) to consider
+ All expenses of the investment / disposition can be taken into account for tax reduction
+ No transfer taxes for the transfer of existing assets in the private assets (capital assets) to GmbH
+ Deposit refunds can be made in the amount of deposits made

Investment in limited liability companies

Selected disadvantages

- In the event of a **distribution from the GmbH**, in addition to any liability for corporation tax in the year of generation - **27.5% capital gains tax** arises
  - The integrated tax burden on domestic dividends distributed to the shareholder is therefore **27.5 %**
  - However, the integrated tax burden on other income distributed to the shareholder is around **46 %** (e. g. bond interest or price gains realised)
- Reporting obligation (additional costs for bookkeeping and annual accounts)
  - Additional expenses depend on the number of transactions and securities held (less on the volume invested)
- Transfer of personally acquired assets to GmbH usually leads to tax realisation of any hidden reserves at the transferor

Investment in private foundations

Comments and recommendations, selected advantages

! Many **special features of civil law** to be considered

! Particularly attractive for tax purposes

- For holding domestic investments, if the resulting distributions are to be accumulated
- For holding and disposing of > 1 % shares in stock corporations

\+ **Advantages** of the tax treatment of **investment income** (dividends) essentially as for GmbH

\+ All other income liable to final taxation is subject to 25 % **interim corporation tax** - due to the counting of interim corporation tax against benefits, the **integrated income tax burden** amounts to **27.5 %**

\+ **Reserve transfer pursuant to § 13 (4) KStG [Corporation Tax Act]**

- (Virtually permanent) tax deferral possible with reinvestment of profits from the sale of > 1 % equity interests
- "Cash box" can also represent reinvestment

\+ Transfer of personally acquired assets to a private foundation does not usually represent a realisation process

Investment in private foundations

Selected disadvantages

- Gross taxation: Income-related expenses approach (consulting costs, incidental acquisition costs etc.) is not permitted
- Reporting obligation (additional costs for bookkeeping and annual accounts)
  - Additional expenses depend on the number of transactions and securities held (less on the volume invested)
- Transfer of existing assets to a private foundation triggers 2.5 % foundation entrance tax
- Order of appropriation for "deposit repayments" (in contrast to the GmbH, it is mandatory to first allocate "yield" as capital gains taxable)
- No automatic loss relief by custodian