


URL: <http://www.deloitte-tax-news.de/german-tax-legal-news/finance-ministers-of-federal-states-reach-agreement-on-tightening-of-rett-rules.html>

 30.11.2018

German Tax and Legal News

Finance ministers of federal states reach agreement on tightening of RETT rules

Federal MOF asked to introduce proposals into the legislative process

According to a press release published on 29 November 2018 by the Ministry of Finance of the state of Hesse, the finance ministers of the German federal states have reached agreement relating to a considerable tightening of the real estate transfer tax (RETT) rules, an initiative that originally was announced on 21 June 2018 (see [GTLN dated 06/26/2018](#)).

Under current rules, RETT is triggered on direct transfers of real estate and where 95% or more of the shares in a German real estate-owning company are directly or indirectly transferred to a new owner, or where 95% or more of such shares are directly or indirectly combined for the first time in the hands of a new shareholder (or if there is a 95% or greater change either directly or indirectly of the partners in a partnership). The state level finance ministers have proposed to reduce the 95% threshold to 90%. In addition, a new rule would be introduced for corporations, whereby a transfer of 90% or more of the shares to several new shareholders within a period of 10 years triggers RETT (such a rule already applies to real estate-owning partnerships), and the minimum holding periods for certain structures in the RETT code would be expanded from five to 10 years.

The actual resolution reached by the finance ministers has not yet been made public, so neither the precise wording of the proposed rules nor the effective date are known.

The state level finance ministers have asked the Federal Ministry of Finance (MOF) to introduce the provisions to amend the RETT rules into the legislative process. The MOF now will review the proposals - there are no details on the timing of this process.

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