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German Tax and Legal News

Local tax court rules on tax effective write-down of quoted bonds

In a recently published decision (case reference: 9 K 75/09 K), the local tax court of Münster had to decide on the prerequisites for a tax effective write-down of bonds which the taxpayer held as current assets. A German bank held various fixed interest-bearing publicly quoted bonds. At the end of the financial year (31 December 2007), the market value of the assets fell below their book value. In January 2008, at the date of preparation of the tax balance sheet, the market value had recovered, but had not reached the original acquisition cost. Market values in the interim period were even higher. The bank valued the bonds at the highest interim market value in its tax balance sheet, but claimed in a subsequent objection against the tax assessment that the value for tax purposes must be the (lower) market value at the date of the fiscal year-end.

Germany's general valuation principles of assets for tax purposes provide that a write-down of (current) assets is tax effective only if the decline in value (on the balance sheet date) is expected to be permanent. According to settled case law of the Federal Tax Court (BFH), a decline in value of quoted shares held as fixed assets is permanent only to the extent the share price has not recovered at the date the balance sheet is prepared. Relying on the BFH jurisprudence, the local tax court of Münster has extended this principle to apply to interest-bearing bonds held as current assets. Deviating from tax authority guidance on this specific point, the court held that only the market value at the time the tax balance sheet is drawn up should be decisive (instead of the highest market value between the balance sheet date and the date the tax balance sheet is prepared). The case is now pending before the BFH (case reference I R 98/10).

If you have any questions, please contact the authors of the article at gtln@deloitte.de or your regular Deloitte contact.

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