

Dear customers and business partners,

We are pleased to provide you with the August 2021 edition of our newsletter, which informs you about recent changes in tax law, finance, accounting and auditing. Furthermore, it is always worthwhile visiting our homepage, where we continuously publish professional service news and provide you with additional helpful information (www.brag.ch).

COVID-19 bridging loans are considered debt on the balance sheet

In the balance sheet, a COVID-19 loan is classified as financial liability. However, for the purpose of calculating over-indebtedness, it is not considered a liability, but equity.

The bank may introduce amortisations during the term. As long as the loan has a maturity of more than 12 months, it can be shown as a long-term liability in the balance sheet. As soon as parts of it have to be amortised within the next year, these upcoming amortisations should be presented separately as current liabilities in the balance sheet. The COVID-19 loan must be disclosed in the notes to the annual financial statements.

The compensation of inheritance withdrawals

Parents often want to leave part of their assets to their descendants during their lifetime. One possibility for this is an advance inheritance. This is a lifetime giving to descendants. After the death of the parents, the legal heirs must have the amount credited to their inheritance, make a compensation.

The testator can exempt the donees from this equalisation obligation in his will, but only within the scope of the free quota. The compulsory portions must be preserved. If the beneficiary is not a legal heir, it is not called an advance inheritance but a gift. After the death of the giver, beneficiaries only have to compensate for gifts that were made less than five years ago and violate compulsory portions.

If the advance withdrawal exceeds the share in the inheritance, the beneficiary must repay the difference to his co-heirs. The amount of the compensation depends on the value at the time of the division of the inheritance, not on the value at the time of the advance withdrawal. This means that if, for example, a daughter received a house 20 years before her father's death, the house is valued at today's market value. Under certain circumstances, the advance on the inheritance exceeds the share in the inheritance and the compensation payment may cause the person concerned distress.

It is recommended that advance inheritance withdrawals and gifts be recorded in writing. At the same time, the testator can determine whether the advance withdrawal must be compensated when the inheritance is divided. However, this is only possible within the scope of the free quota - the compulsory portions must be preserved.

Maintenance payments are taxable

Maintenance contributions received by a taxpayer in case of divorce or separation are taxable. It does not matter whether the contributions are made as a recurring payment, through indirect payments such as the takeover of rent or school costs or through payments in kind. In return, the maintenance contributions to the divorced or separated spouse can be deducted from the income.

AGM resolutions without all owners or representatives are null and void

The Federal Supreme Court ruled that resolutions of a universal general meeting under company law are void if not all owners or representatives of all shares are present. Resolutions passed by an improperly constituted general meeting are also void. "Not properly constituted" means that the AGM was convened by an incompetent body and that not all shareholders were invited to the AGM or that non-shareholders were present at the AGM. (Source: BGE 4A_279/2018 of 2 November 2018)

Own rental value must be taxed if it is provided free of charge

The free usage of a house or a flat to family members is considered to be owner-occupation. Owner-occupation also exists if the former marital home is assigned to the other spouse as part of a divorce proceeding.

It follows that the co-owner who leaves his share to the other spouse on the basis of the divorce agreement has to tax the full imputed rental value for a co-ownership share as income from immovable property. At the same time, however, the owner-occupied rent can be deducted for tax purposes to the same extent as a maintenance contribution to the separated or divorced spouse.

Kind regards,

Your BRAG / Contrast Team