

**Dear customers and business partners,**

**We are pleased to provide you with the September 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](http://www.brag.ch)).**

### **Private individuals are also entitled to a flat-rate deduction for rented property**

The Zurich Administrative Court had to decide whether the flat-rate deduction for maintenance and operating costs was also available to the owner of a privately owned property.

The issue was that the tenant had taken over the maintenance and operating costs himself and the owner had therefore applied the flat-rate deduction, which the tax office refused him. The court ruled in favour of the owner, the flat-rate deduction could be granted to him. (Source: ZH Administrative Court of 17.12.2020)

### **Compliance with deadlines is important in the case of objections to assessment rulings**

After the tax return has been submitted, the tax authority makes a so-called assessment. Based on the data provided, it determines the taxable income and the taxable wealth and the tax owed. The taxpayer is notified of this decision in a tax assessment.

An appeal against this decision can be raised within 30 days. After 30 days, the assessment becomes legally binding and the taxpayer must pay the tax, even if the amount is set too high.

Delayed appeals will only be accepted if the taxpayer proves that he/she was prevented from submitting the appeal in time due to military or civilian service, illness, absence from the country or other significant reasons.

When the assessment order arrives, it must be checked carefully, because both sides can make mistakes: Either the taxpayer forgets to make deductions or the tax administration deletes some that it does not consider appropriate.

The following procedure is recommended after receipt of the assessment ruling.

1. Check your own tax return: have all permitted deductions been made? Does the tax amount make sense compared to the previous year? Have I made any mistakes myself? Have I forgotten any deductions?
2. Check the information provided by the tax administration: have deductions been cancelled? Was income added? How does the comparison between last year's and current year's tax return compare?

3. If you find an error, your own or the tax administration's: raise an objection.  
An objection is free of charge and must be made in writing within the 30 days mentioned above. Objections by fax or e-mail are not sufficient; the objection must be made by letter, with the title Objection.  
The objection must explain
- which part of the assessment is being criticised,
  - what correction is desired and
  - how this concern is justified.
- The better an objection is justified, the better the chances that it will be approved. Possible evidence must be enclosed.

### **Low risk of compensation for counterfeit goods**

If counterfeit goods are confiscated at customs without the buyer's knowledge, there is only a small probability that compensation will be paid.  
The import of counterfeit goods is prohibited, both for business and private use. The trademark owner can claim compensation for trademark infringement if the importation of counterfeit goods has caused him financial damage, which is difficult to prove.  
The customs administration may temporarily confiscate suspected counterfeit goods and may not destroy the goods without the buyer's consent. The buyer must surrender the goods if the trademark owner does not file a lawsuit against the buyer within 10 days.

### **Residence under tax law for weekly residents**

The Federal Supreme Court ruled in two cases on the tax law domicile of weekly residents. In both cases, the court fixed the tax domicile at the place of work.  
The Federal Supreme Court established the following rules:

- In the case of married or cohabiting persons, a close relationship to the family's place of residence is assumed and residence is determined there.
- The same applies to single/widowed/divorced persons. However, the federal judges are of the opinion that the relationship with parents, siblings and/or friends is less close than the relationship with a partner and any children. For this reason, the relationship to the place of work exceptionally comes to the fore if the employment relationship lasts more than 5 years and the person concerned has exceeded the age of 30.

## Crediting hours for sick part-time employees

If a part-time employee calls in sick or has an accident, the question arises as to how many hours are to be credited to him.

The following options are possible:

1. The employee is credited with the reduced target working time corresponding to the workload. The part-time employee is treated as a full-time employee. His weekly target working time is distributed over a five-day week. In case of an absence of a few days, this results in the employee having a "minus time". In case of longer absences of one week or more, the "minus time" is balanced out again. This regulation means that the employee must report illnesses even on his days off.
2. In case of illness or accident, the actual working hours to be worked on that day shall be credited. The employee is thus not disadvantaged even in case of short incapacity to work and does not have to submit a doctor's certificate on his non-working days, but illnesses on non-working days are at his expense.

The Federal Administrative Court has stated that both methods are permitted.

## Contributions to foreign pension plans are permitted for tax deduction

In Switzerland, foreign pension plans are permitted for tax deduction under the following conditions:

- The taxpayer is exclusively subject to foreign social security law.
- The foreign pension plan is comparable to Swiss AHV, occupational pension or Pillar 3a.
- The foreign social security institution is recognised.
- It is a collective and not an individual pension plan.

Each individual case is examined individually.

## Employees must hand over commissions to employer

An employee of a car dealer arranged insurance policies for his customers on the side, for which he received commissions from the insurance companies. The employer was unaware of this and demanded the commissions from the employee, as he made actions during his working hours.

The District Court of Uster dismissed the car dealer's claim. The Higher Court of the Canton of Zurich saw it differently. The employee's employment contract only allowed him to earn additional income with the company's consent. Therefore, the employee must hand over the commissions in the amount of CHF 120,000 to the garage. (Source: *Zurich Higher Court, LA180011 of 11 October 2018*)

Kind regards,

Your BRAG / Contrast Team