

ECJ Decides on Trade Tax Rules on Portfolio Dividends: *H Lebensversicherung* (Case C-258/22) (Direct Tax)

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Report from IBFD Knowledge Centre

On 22 June 2023, the Court of Justice of the European Union (ECJ) gave its decision in *Finanzamt Hannover-Nord v. H Lebensversicherung* (Case C-258/22) based on a number of grounds.

"On those grounds, the Court (Sixth Chamber) hereby rules:

Article 63 TFEU must be interpreted as not precluding legislation of a Member State under which, when calculating the basis of assessment for a company's business tax, dividends from holdings of less than 10% in non-resident capital companies are to be added back to that basis of assessment, if and to the extent that those dividends were deducted from that basis of assessment at a previous stage of that calculation, whereas dividends from comparable holdings in resident capital companies are included from the outset in the abovementioned basis of assessment, without being deducted from or, consequently, added back to that basis of assessment."

For a previous TNS regarding the case, see [Germany-1, News 28 July 2022](#).

A more substantial report containing details of the ECJ's decision will be published in the ECJ Case Law collection in due course.