
STATUTORY INSTRUMENTS

2012 No. 459

**The Bank Levy (Double Taxation Arrangements)
(Federal Republic of Germany) Regulations 2012**

Cases about being taxed otherwise than in accordance with the Convention

Giving effect to solutions to cases and mutual agreements resolving cases

13.—(1) Paragraphs (2) and (4) apply if under, and for the purposes of, the double taxation arrangements—

- (a) an entity presents, to the Commissioners for Her Majesty’s Revenue and Customs or to a competent authority in the Federal Republic of Germany, a case concerning the entity’s being taxed (whether in the United Kingdom or the Federal Republic of Germany) otherwise than in accordance with the double taxation arrangements, and
- (b) the Commissioners arrive at a solution to the case or make a mutual agreement with a competent authority in the Federal Republic of Germany for the resolution of the case.

(2) The Commissioners are to give effect to the solution or mutual agreement despite anything in any enactment, and any such adjustment as is appropriate in consequence may be made.

(3) An adjustment under paragraph (2) may be made by way of discharge or repayment of tax, the allowance of credit against tax payable in the United Kingdom, the making of an assessment or otherwise.

(4) A claim for relief under any provision of the Tax Acts or the enactments relating to capital gains tax may be made in pursuance of the solution or mutual agreement at any time before the end of the period of 12 months following the notification of the solution or mutual agreement to the entity affected, even if that involves making the claim after a deadline imposed by another enactment.

(5) In this regulation “competent authority in the Federal Republic of Germany” means the Federal Ministry of Finance or the agency to which it has delegated its powers.

Effect of, and deadline for, presenting a case

14.—(1) This regulation applies to the presentation of a case concerning an entity’s being taxed (whether in the United Kingdom or the Federal Republic of Germany) otherwise than in accordance with the double taxation arrangements.

(2) The presentation of any such case under and in accordance with the double taxation arrangements—

- (a) does not constitute a claim for relief under the Tax Acts or the enactments relating to capital gains tax, and
- (b) is accordingly not subject to section 42 of the Taxes Management Act 1970(1) or any other enactment relating to the making of such claims.

(3) Any such claim must be presented before the end of the later of—

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- (a) the period of 3 years following the first notification of the action resulting in the entity being charged otherwise than in accordance with the double taxation arrangements, and
- (b) the period of 6 years following the end of the chargeable period to which the case relates.