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Characterization of the US LLC For German Tax Purposes

The authors examine the substance and potential effects of a ruling from the German tax authorities regarding the tax treatment of US limited liability companies (“LLCs”).

Summary:

In sum, the BMF Notice should be welcomed because it provides generally applicable guidelines for the characterization of a US LLC for German tax purposes and relieves investors and practitioners alike of much of the uncertainty previously surrounding this issue. However, the BMF Notice also leaves many questions open, particularly how it will be applied in an actual case, where the German law principles, on which the BMF Notice is based, must be applied to the US legal reality -- *i.e.*, the limitless variations of US LLC agreements.

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