



Unpaid income tax establishes liability of the managing director of a GmbH - Company law

Unpaid income tax establishes liability of the managing director of a GmbH - Company law

GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - www.grprainer.com/en conclude: In a recent judgment (Az.: 3 K 1632/12), the Fiscal Court of Rhineland-Palatinate (FC) dealt with the question of the extent of a German limited liability company (GmbH) managing director's liability in the case of unpaid income tax. In the instant case, no income tax was paid to the tax office for the employees of a GmbH over several months, whereupon the tax office initially attempted to enforce this against the assets of the company. However, this was not possible due to the financial situation with the result that recourse was made to the two managing directors. One of the managing directors subsequently submitted a claim before the FC Rhineland-Palatinate.

The plaintiff argued that only the other managing director was responsible for fiscal matters within the meaning of an internal agreement. Additionally, liability on his part was excluded by the fact that he had regularly informed himself of the proper performance of the fiscal responsibilities and thus fulfilled his duty to monitor. The FC Rhineland-Palatinate did not, however, follow the plaintiff's reasoning and rejected the claim.

In the Court's view, the plaintiff was liable as the legal representative of the GmbH. The adduced distribution of responsibilities could not be drawn on to limit liability. Only if the allocation of duties had been put into writing in advance by means of an agreement could liability have been excluded, but this was not the case here. Moreover, such an arrangement does not absolve the managing director from his duties to monitor. Thus, the managing director would still have to intervene if the GmbH's economic situation or circumstances with respect to the co-managing director gave cause to do so.

Accordingly, the tax office's statement of liability was legal and any limitation of liability ineffective, because otherwise there would also be a risk of every managing director passing on the responsibility.

The foundations of a successful business are laid as early as the founding of a GmbH. The articles of association are an important component in which significant aspects of liability can also be regulated. For this reason, it is advisable to approach a lawyer versed in company law at an early stage. He can help draft all contracts and enforce the best possible solution where difficulties arise.

<http://www.grprainer.com/en/GmbH-Limited-Liability-Company.html>

Pressekontakt

GRP Rainer LLP Lawyers Tax Advisors

Herr Michael Rainer
Hohenzollernring 21-23
50672 Cologne

grprainer.com/en
press@grprainer.com

Firmenkontakt

GRP Rainer LLP Lawyers Tax Advisors

Herr Michael Rainer
Hohenzollernring 21-23
50672 Cologne

grprainer.com/en
press@grprainer.com

GRP Rainer LLP www.grprainer.com/en/ is an international firm of lawyers and tax advisors who are specialists in commercial law. The firm counsels commercial and industrial companies and corporations, as well as associations, small- and mid-sized businesses, self-employed freelancers and private individuals worldwide from offices Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London UK.

Anlage: Bild

