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VfGH: Introduction of New Capital Gains Tax as of October 1, 2011 Unconstitutional!

On June 24, 2011 the Constitutional Court (VfGH) issued a press release concerning the introduction of the new capital gains tax. A respective claim was filed with the VfGH by several Austrian banks.

According to the VfGH, the **time line** for the new capital gains tax to **enter into force** (October 1, 2011) is **unconstitutional** as it is too short; banks would not have enough time for setting up the technical equipment to carry out their withholding tax obligations. As we reported in our BTN No. 15 on June 6, 2011, the draft for the AbgÄG 2011 already extended the time line for the new rules to April 1, 2012.

All **other concerns** – in particular the obligation of banks to withhold the new capital gains tax – are however **in line with the constitution according to the VfGH**.

Your Deloitte Tax Advisor will be happy to answer your questions.

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