

## PRESS RELEASE

### MALTA FILES: WOLF THEISS SEES CONFIRMATION OF SHIFT IN THE PERCEPTION OF TAX PLANNING

**Vienna, 30 May 2017 – The currently discussed "Malta Files" are confirming, according to Wolf Theiss, changing trends in how tax planning is perceived. The lines between tax planning and tax evasion are beginning to shift, leading to a prevailing sense of uncertainty.**

The current discussion about Malta as a tax haven is raising a few questions. According to Benjamin Twardosz, Wolf Theiss Partner and tax expert, many of the most harmful tax practises, such as the paying of interest or licence fees to a corporation domiciled in Malta, have not worked in Austria anyway for a long time as the law has since changed in this respect. Allegations according to which Austrian corporations are avoiding tax by paying licence fees or interest to corporations in Malta are therefore not accurate, he adds.

Malta, which currently holds the rotating presidency of the European Council, continually works to bring its laws into conformity with EU guidelines, such as, for example, the Code of Conduct of ECOFIN and the anti-abuse guidelines of the EU. In this way, Malta enforces the guidelines of the OECD and the EU to avoid harmful tax practises; a report published by KPMG recently confirmed this finding.

If it is deemed illegal to choose where a holding is located based on tax considerations, or to optimise tax structures, then, according to Twardosz, the decision to found a GmbH instead of an individual enterprise would also be a "tax avoidance strategy" as it is motivated purely by the desire to save on tax expenses.

He identifies a shift in the perception of tax planning compared to tax evasion; anything that reduces a tax burden is increasingly viewed as tax avoidance, he adds.

Instead of condemning such measures, Twardosz suggests that it would be more reasonable to continue to distinguish between tax planning and tax avoidance. Not everything that takes place abroad and serves to reduce tax burden is automatically tax evasion. It is also important that such circumstances be disclosed to the financial authorities, which is already standard operating procedure for large companies.

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## ABOUT WOLF THEISS

Founded in 1957, Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 offices located in Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Romania, Serbia, Slovakia, Slovenia and Ukraine, Wolf Theiss represents local and international industrial, trade and service companies, as well as banks and insurance companies. Combining law and business, Wolf Theiss develops comprehensive and constructive solutions on the basis of legal, fiscal and business know-how.

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