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Constitutional Court refuses case against double charge to income and inheritance tax on interest claims.

The Constitutional Court has rejected for lack of prospects for success a case claiming that the future income tax due from the heir on interest earned but not yet due on the date of death of the testator be deducted from the inheritance tax base as a charge on the estate.

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An heir to an estate objected to the unrelieved inclusion of the nominal amount of interest earned by the testator up to the date of death in the inheritance tax computation. His objection was based on the double charge to inheritance tax on the estate and to income tax in his own hands once the interest was duly paid. The tax courts refused the objection as being without foundation in law and the Constitutional Court has now refused to try a case based on the principles of equality of taxation for lack of prospects of success. The court's main point was that the legislature was within its rights not to permit a deduction for future income tax payable from the accrued interest included in the gross estate in the interests of simplicity. Simplicity would be lost if the estate duty computation were to be subject to a future income tax charge to be based on factors unknowable at the date of death and, in any case, beyond the ambit of the testator or the estate. Also the amount involved – €16,000 on a gross estate of some €7.5 m – was not so significant as to be manifestly unfair or to render acceptance of the inheritance uneconomic.

Constitutional Court resolution 1 BvR 1432/10 of April 7, 2015 published on May 13

Schlagwörter

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