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By PwC Deutschland | 31. Januar 2025

Membership fees for gym not deductible as extraordinary personal expenses

The Supreme Tax Court decided that expenses for a gym membership are generally not tax deductible as personal extraordinary and inevitable expenses. This also applies if the participation in a medically prescribed functional training program requires a membership in the gym.

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Background

The relevant Section 33 paras. 1 and 2 of the Income Tax Act provides that

(1) If a taxpayer inevitably incurs higher expenses than the vast majority of taxpayers with the same income, assets and marital status (extraordinary burden), income tax shall be reduced upon application by deducting from the total amount of income that part of the expenses which exceeds the taxpayer's reasonable burden.

(2) Expenses are necessarily incurred by the taxpayer if he cannot avoid them for legal, factual or moral reasons and insofar as the expenses are necessary in the circumstances and do not exceed a reasonable amount.

The plaintiff received a medical prescription for functional training to participate in aqua gymnastics. Such training is offered by various operators who employ suitably qualified staff. The plaintiff opted for training at a rehabilitation club which held the courses in a conveniently located fitness studio. In addition to the cost contribution for the functional training and membership of the rehabilitation club, membership of the fitness studio was also a requirement for course participation. However, the latter also entitled the claimant to use the swimming pool and sauna and to take part in other courses. The health insurance company only reimbursed the fees for functional training courses.

The tax office only accepted the membership fees for the rehabilitation club as deductible extraordinary expenses. Both the tax office and the tax court of first instance refused to deduct the membership fees for the fitness studio as personal extraordinary (exceptional) expenses.

Decision

The Supreme Tax Court rejected the appeal of the plaintiff.

Membership fees for a fitness studio are generally not considered to be inevitably incurred medical expenses and thus not tax deductible as extraordinary expenses. The range of services associated with a gym membership is also used by healthy people to maintain their health, improve their well-being or organize their leisure time in a meaningful way.

The membership fees were also not inevitably incurred by the plaintiff because she had to join the gym as a member to be able to participate in the medically prescribed functional training. The decision to complete the functional training in the gym is primarily the result of freely chosen consumer behavior which, in the opinion of the Supreme Tax Court, cannot justify a tax-relevant inevitability of the costs. In addition, the fact that the plaintiff was given the opportunity to use other services - beyond the medically indicated functional training - precludes the deduction of the membership fees. This also applies if the plaintiff - as stated by her - did not use the other services.

Source:

Supreme Tax Court judgment of 21 November 2024 (VI R 1/23) – published on 30 January 2025.

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Schlagwörter

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