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# Supreme Tax Court defines tax principles for rental of holiday homes

**In a most recent decision, the Supreme Tax Court held that a residential apartment that is rented exclusively to tourist guests and is kept available for this purpose during the rest of the year is generally to be recognized for tax purposes. It can generally be assumed that the taxpayer intends to generate a surplus income if the rental period does not fall significantly (i.e., by at least 25%) below the usual local rental period for residential apartments.**

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In the **case of dispute**, the taxpayer owned a residential apartment in a well-known tourist resort. From 2016 onwards, she let the apartment as a holiday home. Continuous losses were incurred from the rental engagements. A dispute arose with the tax office as to whether the relevant tax criteria for recognition of the rental of a holiday home were met.

With its current decision, **the Supreme Tax Court** confirmed the established principles that losses incurred in connection with the rental of a holiday home exclusively to tourists and which is kept available for this purpose during the rest of the year can be recognized for tax purposes without further preconditions and thus be offset against other income.

This requires that the customary local rental period is not significantly reduced (i.e. by at least 25%) over a longer period. To determine the average utilization of the holiday apartment it is necessary to monitor a continuous period of three to five years.

The tax office and the tax court of first instance examined the 25% cap for each year separately. As a result, they had taken the rental losses into account for tax purposes for one year, but not for other years. The Supreme Tax Court therefore overturned the former court decision and referred the case back to examine the occupancy rate of the vacation apartment over a continuous period of three to five years.

## Source:

Supreme Tax Court, decision of 12 August 2025 IX R 23/24 - published on 16 October 2025.

**Schlagwörter**

Holiday accomodation, rental