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By PwC Deutschland | 16. November 2025

No extended trade tax deduction if classic cars are held as capital investment

The Supreme Tax Court decided that a secondary (ancillary) activity to the holding and management of own property which is not expressly permitted by Section 9 No. 1 Sentence 2 Trade Tax Act (in the case in dispute: keeping classic cars for the purpose of appreciation of value), can also preclude an extended trade tax deduction even if no income is generated.

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Background

According to Section 9 no. 1 2nd Sentence of the Trade Tax Act (TTA), in place of the deduction under Section 9 No. 1 1st Sentence TTA (lump sum deduction of 1.2% of the assessed value of the real estate), enterprises, which exclusively manage and use their own real estate or their own capital assets in addition to their own real estate, may apply for (extended) deduction with respect to the part of the trading income which relates to the management and use of their own real estate.

The requirements for extended trade tax deduction for own real estate are usually handled restrictively by the tax authorities and tax courts as they lead to an exemption from taxation. In addition to the management and use of own real estate, the property-owning company is also permitted to engage in narrowly defined ancillary activities.

The plaintiff is a limited liability company which manages and uses exclusively its own real estate or capital assets and with investments in other companies and other assets. In the years in dispute (2016 to 2020), the plaintiff's fixed assets included two classic cars (vintage cars), which it had purchased as investments with the intention of making a profit. However, over the years no income was generated.

The tax office denied the extended trade tax deduction. The Baden-Württemberg Tax Court agreed and dismissed the claim brought by the plaintiff.

Decision

The Supreme Tax Court agreed with the conclusion of the former tax court and also dismissed the appeal of the plaintiff.

All activities not mentioned in Section 9 No. 1 sentence 2 TTA are detrimental to the trade tax deduction if they are not harmless secondary activities. The holding of classic cars is not mentioned in Section 9 TTA. “Capital assets” are only those assets who lead to income from capital investment in accordance with Section 20 of the German Income Tax Act.

It is not the remuneration for the activity that matters but solely the type of activity. The Supreme Tax Court based its conclusion on the wording and concept of the contested regulation. This does not indicate that activities are not detrimental to the deduction from the outset if there is no remuneration. Only in terms of the legal consequences does the law refer to remuneration, namely that only the**income** generated from the management and use of own real estate is deductible from the trading income. If no income is generated no deduction is available.

The extended deduction should furthermore only be granted to companies with business income solely by virtue of their legal form if they exclusively manage and use their own real estate or, in addition to their own real estate, manage and use their own capital assets, and that therefore the activities do not go beyond the bounds of private asset

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management.

In summary the plaintiff lost the benefit of the extended deduction in all five years at issue (2016 through 2020) due to the harmful ownership of two classic cars. Since the question of consideration (remuneration) is not of relevance it did not matter that the plaintiff had not yet generated any income from the classic cars which he held as an investment.

Source:

Supreme Tax Court, decision of 24 Juli 2025 (III R 23/23), published on 13 November 2025.

Schlagwörter

ancillary service, classic car, extended trade tax deduction