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By PwC Deutschland | 05. Dezember 2025

Tax relief under Section 7i of the Income Tax Act restricted to architectural monuments located in Germany

In a recently published judgment, the Supreme Tax Court decided that the restriction for tax relief under Section 7i of the Income Tax Act to domestic historical monuments and therefore the disallowance of the increased depreciation for historical monuments located abroad to be, in principle, consistent with EU law.

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In 2008 the plaintiffs (a married couple) purchased a courtyard park complex with a building in Poland. The courtyard building is under preservation order. Following extensive renovation over several years, the building was converted into a hotel with a restaurant and wellness facilities (spa).

During a tax audit, **the tax office** found that the profits for the plaintiffs' business income (from the hotel, the restaurant, and the spa) had been calculated in accordance with Polish law. However, since – for the sake of applying the progression proviso when calculating the overall tax rate of the couple's income - the foreign income had to be calculated in accordance with German law, the tax auditor had prepared a reconciliation statement for the sake of simplification and applied a depreciation rate of 3% instead of 9% for the business premises because Section 7i of the German Income Tax Act (ITA) was only to be applied for architectural monuments located in Germany.

The tax court of first instance had dismissed the claim on this point. **The Supreme Tax Court** confirmed this view.

According to Section 7i (1) sentence 1 ITA, taxpayers may, in the case of a historical monument located in Germany that is listed as such under the relevant state regulations, deduct up to 9% of the construction costs in the year of construction and in each of the following seven years, and up to 7% in each of the ensuing four years, for work that is necessary for the preservation of the building as a historic monument or for its appropriate use.

These requirements are not met in the case in dispute because the construction work was not carried out on a historic building located in Germany. The restriction of tax relief to domestic historic buildings is fundamentally in line with EU law, at least if historic buildings that are part of Germany's cultural and historical heritage are also included. The Supreme Tax Court refers primarily to the ECJ decision *X* of 18 December 2014 - **C-87/13**, para. 23 et seq.). The request for a preliminary ruling concerned the interpretation of EU law (specifically Article 63 TFEU on free movement of capital) regarding tax incentives for preserving historic buildings in the Netherlands. The Dutch government wanted to restrict these tax advantages to properties within the Netherlands, even though EU law generally prohibits discrimination against assets in other Member States.

Albeit the limitation of the benefit to domestic historical monuments is per se a restriction of the freedom of establishment there is after all no fundamental discriminatory distinction between residents and non-residents because the respective circumstances are not comparable.

Source:

Supreme Tax Court, decision of 3 September 2025 (X R 19/22), published on 4 December 2025.

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depreciation