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By PwC Deutschland | 09. März 2026

Update: Supreme Tax Court considers the land tax reform (“federal model”) to be constitutional

In three cases and following oral proceedings on 12 November 2025, the Supreme Tax Court held that using the capitalized earnings value method for the valuation of residential property to determine the land tax from January 1, 2025, to be constitutional.

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Background

The plaintiffs were apartment owners from North Rhine-Westphalia, Saxony, and Berlin. The plaintiffs in case II R 25/24 are co-owners of a 54-square-meter rented condominium. The apartment is located in a desirable residential area in Cologne in the basement of an apartment building constructed before 1949. The plaintiff in case II R 31/24 owns a 70-square-meter apartment built in 1995 in a Saxon municipality which she uses herself. The plaintiff in case II R 3/25 is the owner of a 58-square-meter rented apartment in a multi-family house built before 1949 in a modest residential area in Berlin.

In all three cases, the tax office had calculated the respective land tax value as of January 1, 2022 based on the simplified capitalized earnings value method (based on flat-rate net cold rents).

Decision

The Supreme Tax Court confirmed the findings of the lower courts and dismissed the appeals. It is not convinced that the regulations applicable in the cases in dispute are unconstitutional; therefore, a referral to the Federal Constitutional Court pursuant to Article 100 (1) of the Basic Law is not necessary.

The main supporting reasons for the decision (in brief):

The Land Tax Reform Act law is formally constitutional. In particular, the federal government had concurrent legislative authority under Article 105 (2) sentence 1 of the Basic Law.

The Supreme Tax Court is not convinced that the provisions of the capitalized earnings value method violate the general principle of equality in Article 3 (1) of the German Basic Law. In view of this, the Supreme Tax Court considers the basic structure of this valuation method to be constitutional.

The legislator has created a valuation system that follows a market value-oriented approach and is designed to approximate the “objective real property value” within a range of the market value for the average of all properties to be valued.

The valuation rules chosen by the legislature are fundamentally suitable for

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reflecting the basis for taxation in a realistic manner.

The relevant nature of legally standardized typical land values for determining the value of the (fictitious) undeveloped plot which generally allows for a deviation of 30% upward or downward between the value of the property being appraised and the standard land value used as the average value for the relevant standard land value zone does not violate a realistic and fair appraisal as required by the Federal Constitutional Court.

The **complete judgments in all three cases** will be available in early 2026 and published on the website of the Supreme Tax Court.

Update (9 March 2026)

According to a press release from the Taxpayers' Association, a constitutional complaint against the Supreme Tax Court decision II R 3/25 is now pending before the Federal Constitutional Court under file number 1 BvR 472/26. It will then finally be clarified whether the “federal model” is in accordance with the principle of equality. From the associations' point of view, the “federal model” leads to systematic inaccuracies and unfair shifts in tax burden because the assessment is based primarily on standard land values and flat-rate, partly fictitious rental values.

Source:

Supreme Tax Court, decisionsof 10 December 2025 (II R 25/24, II R 31/24 and II R 3/25), press release published on 10 December 2025.

Schlagwörter

Taxation of real estate, land tax