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By PwC Deutschland | 03. März 2026

VAT on services provided by non-profit sports club

In a most recently published decision, the Supreme Tax Court commented on the VAT situation regarding membership fees for non-profit sports clubs and held that they may be subject to VAT. However, it must be verified whether the sports club provides its members with a single service or several separate services, and whether this constitutes a tax-exempt transaction or one subject to VAT.

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Background

The plaintiff was a non-profit recreational (grassroots) sports club offering various disciplines (soccer, swimming, gymnastics, table tennis, etc.). The plaintiff built an artificial turf field to be used for both youth sports and the games and training of the men's soccer team, the latter of which was run as a commercial business unit within the club. The club also received a subsidy from the municipality for the construction. In the year in dispute (2015), the plaintiff treated its membership fees as taxable remuneration and at the same time claimed input VAT deduction from the construction costs of the artificial turf pitch.

The tax office referred to the letter from the Federal Ministry of Finance (MoF) dated February 4, 2019, according to which membership fees were to be regarded as VAT exempt participation fees for sporting events within the meaning of Section 4 No. 22 letter b of the VAT Act. For that reason, input VAT deduction was not possible.

The tax court of first instance partially upheld the appeal filed against the decision of the tax office. The plaintiff cannot deduct those input VAT amounts attributable to participation of its members in training, league games, and test games. The membership fees are remuneration for taxable services and tax-exempt under Section 4 No. 22 Letter b VAT Act.

The plaintiff had argued, among other things, that membership in an club did not qualify as participation fees for sporting events within the meaning of Section 4 No. 22 letter b VAT Act. In the event of genuine membership fees there was no exchange of services and - to that extent - clubs were not entrepreneurs in this respect.

Decision

The Supreme Tax Court overturned the court's previous decision and referred the case back to the lower tax court for further hearing and final decision. If the services provided by a sports club to its members are taxable it must still be examined to what extent these are tax-exempt.

The tax court failed to consider that the membership fees were paid as remuneration for the provision of a wide range of services offered by the plaintiff in various types of sport. The lower tax court did not examine if the plaintiff provided a single service to its members or several independent services.

In principle, the Supreme Tax Court adheres to the case law established earlier in its decision of August 9, 2007 - V R 27/04 whereby annual membership fees for a sports club may constitute consideration for the services provided by that club whether the members use the benefits or not.

The tax administration continues to apply the opinion issued in its circular of 4 February 2019 that a taxable nature of services provided by an association to its members cannot be assumed to exist if the association acts to fulfill its statutory community purposes

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serving the overall interests of all members and collects “genuine” membership fees for this purpose. Here, the Supreme Tax Court notes that this is no longer compatible with the mandatory requirements under EU law as can be inferred from the ECJ judgment relevant to sports clubs in the case*Kennemer Golf* of 21 March 2002 - **C-174/00**.

The lower tax court failed to determine whether the overall service provided by the plaintiff in exchange for the membership fees is one single (uniform) service to which a tax exemption provision applies as a whole, or whether it involves several independent services. The judgment of the lower court was therefore set aside and the case referred back for further clarification and reconsideration.

Source:

Supreme Tax Court, judgment of 13 November 2025 (V R 4/23) published on 26 February 2026.

Schlagwörter

Non Profit, membership, sports club