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By PwC Deutschland | 28. März 2026

Proof of readmission to the Church

Churches themselves determine who is a member of the church within the limits of the constitution. The Supreme Tax Court overturned the assessment of Protestant church tax because the tax court of first instance had not sufficiently examined the issue of re-admission.

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Background

While in the other German states the local tax office calculates and collects church taxes, this task is the responsibility of the church's own institutions in Bavaria, known there as church tax offices.

In the case in dispute, the plaintiff had challenged the Protestant church tax assessed by the local Church Tax Office for the years 2012 through 2018. He was able to prove that he had left the church in 1973. However, the Church Tax Office assumed that the plaintiff had re-joined the church in 1985. It based this primarily on an outdated index card and on the fact that the plaintiff had paid church tax for many years. The tax court of first instance affirmed the readmission and dismissed the appeal.

Decision

The Supreme Tax Court overturned the decision of the former tax court and referred the case back for further hearing. It held that the lower tax court's previous findings regarding the relevant internal church law were insufficient to establish a valid readmission. In the second proceeding it will therefore have to clarify, in particular, whether and under what conditions a former church member whose primary residence was in Baden-Württemberg at the time could validly declare his re-entry into the Protestant Church to a Bavarian pastor.

In its decision, the lower tax court set forth the legal requirements for readmission. However, the internal church regulations cited do not indicate that merely having a secondary residence in the parish where the re-admission is sought would be sufficient. The lower tax court pointed out that the former church member should have submitted a corresponding application "to the competent pastor (resident vicar)" and that the church council "must be consulted beforehand". However, this leaves the actual question unanswered whether a pastor of the parish of the secondary residence is also a "competent pastor" within the meaning of these provisions and whether a hearing of the church council of that parish is sufficient.

Furthermore, the Supreme Tax Court had the following general remarks regarding the facts of the case.

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Church taxes are payable exclusively by church members. The question of membership in a church is determined independently by the churches themselves based on their right to self-determination which is guaranteed to them as part of their “internal affairs” under Article 140 of the Basic Law in conjunction with Article 137 of the Weimar Constitution. Tax courts are therefore not authorized to interpret the provisions of internal church law independently and according to their own standards. Rather, they must apply church law as it is understood and practiced by the competent internal church authorities.

Note: This decision illustrates how limited the Supreme Tax Court’s review is when it comes to church tax cases. It resembles cases involving the determination and application of foreign law, said one of the presiding judges in a professional commentary which coincided with the official publication of the decision itself. He went on to say that n both cases it is not enough simply to identify the relevant provision; the law must also be applied in the manner interpreted and applied by the relevant authorities - in this case, the church.

Source:

Supreme Tax Court, judgment of 30 October 2025 (X R 28/22) published on 26 March 2026.

Schlagwörter

Church tax