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By PwC Deutschland | 08. Mai 2026

Trade tax addback for rentals of hotel rooms in the event management business

The Supreme Tax Court has handed down three judgments addressing the trade tax addback of hotel room rentals to the trading income and explained that not all expenses for renting hotel rooms must be added back. The decisions are significant for companies in the events industry that regularly rent venues and equipment as well as for companies that rent accommodation for their employees working at other locations.

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Background

According to **Sec. 8 Number 1 Letter e Trade Tax Act (TTA)** one quarter of the total of (currently) one half of the rent paid for the use of immovable fixed assets in the ownership of another must be added back to the trading profit subject to trade income tax. An addback under the trade tax regime presupposes that the assets were to be fixed assets of the lessee had he been the owner himself (fictitious approach).

Section 247 Commercial Code (which the Supreme Tax Court referred to in its judgments) provides that „where fixed assets are reported, only those items are to be shown (in the balance sheet) that are intended to serve business operations on a permanent basis“.

Case in dispute (case no. III R 28/24)

The plaintiff is a limited liability company (GmbH) whose primary business purpose is the organization of conferences, events, and travel. Among other things, the plaintiff reserved rooms, event spaces, technical equipment, and services at conference hotels in its own name. The plaintiff’s clients were the conference organizers to whom the plaintiff charged all expenses incurred to it. The tax office added the rental expenses of the plaintiff to the plaintiff’s trading income. The lower tax court upheld the plaintiff’s claim; it did not consider the rooms as notional fixed assets.

Decision

The Supreme Tax Court upheld the tax office’s appeal. For an asset to be classified as (deemed) fixed assets it is sufficient that, depending on the type of business, the assets are (clearly) intended - both objectively and subjectively - to serve the business on a permanent basis (as in Section 247 (2) Commercial Code); they need not serve it directly or immediately, need not be absolutely necessary, and not relate to the core business.

The criterion of permanent use of an asset - which characterizes (fictitious) fixed assets within the meaning of Section 8 Number 1 Letter e TTA - cannot be replaced by the product that the company manufactures. Whether the duration and frequency of the lease make it appear necessary for the assets to be constantly available in the business must be determined on the basis of the specific business.

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In the case of repeated short-term rentals of real estate - in this case, hotel rooms as part of the events - an add-back may be required only if, under the specific business circumstances, such properties must be kept available for business use at all times and either the same accommodations are used repeatedly or the properties rented on a short-term basis are interchangeable with one another taking into account their location.

The Supreme Tax Court finally noted that the customer's perspective is irrelevant when determining whether and to what extent rented hotel rooms were intended to be used on a permanent basis for business operations.

Note: At the same time, the Supreme Tax Court commented on the same set of issues in cases III R 39/22 and III R 3/23. In all three cases, it overturned the decisions of the lower tax courts and referred the matter back for further hearing and final decision because it had failed to provide the necessary findings.

Case III R 3/23 addresses the question whether real estate leased by a company (in this case: housing for low-wage employees) is intended to serve the business on a permanent basis. The plaintiff required such overnight accommodation on a permanent basis. In **case III R 39/22**, the issue at hand is the short-term rental of hotel rooms and holiday apartments as employee accommodations. The rental of hotel rooms or holiday apartments served to shorten the employees' journey to work.

Source:

Supreme Tax Court, judgment of 15 January 2026 (III R 28/24) and judgments III R 3/23 and III R 39/22 with partly identical content published on 7 May 2026.

Schlagwörter

rental expense, trade tax addback