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By PwC Deutschland | 31. Mai 2026

No compensation for excessive suspension of proceedings before tax court

As a rule, parties to a legal proceeding are not entitled to compensation for the excessive length of a fiscal court trial if the parties have agreed to adjourn the court proceedings in light of an appeal already pending before the Supreme Tax Court in a similar case.

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So-called „model cases“ or exemplary legal proceedings (in comparable cases) released by judicial higher courts are also known in tax law. It therefore makes sense in such cases to wait for the relevant decision from the Supreme Tax Court to provide the pertinent guidelines. In the case in dispute, this approach was taken, and the plaintiff’s own lawsuit was mutually agreed to be stayed pending the outcome of appeal proceedings before the Supreme Tax Court in a similar case.

In the case at hand, the plaintiffs filed a lawsuit in September 2019 challenging the income tax assessment 2017. The dispute concerned the tax treatment of compensation for loss of use following the revocation of a loan agreement. In 2020, the lower tax court suspended the proceedings with the consent of the parties until the Supreme Tax Court decided on an appeal pending before it in a comparable case (case VIII R 30/19). In the meantime, the Supreme Tax Court had decided on the subject matter in another parallel case (regarding the revocation of a consumer loan agreement, judgment of 7 November 2023 VIII R 7/21). After this decision was finally published in March 2024, the lawsuit was formally terminated in November 2024 following a correction by the tax office in favor of the plaintiffs.

The plaintiffs then sought compensation for the unreasonable length of the proceedings before the lower tax court (court of first instance). For one thing, the plaintiffs stated that the “model case” pending before the Supreme Tax Court in a similar case had been delayed for several years. Although the lower tax court itself had not caused the delay at the Supreme Tax Court, it would still be liable for redress. Second, the lower tax court should have rendered its decision more quickly following the publication of the Supreme Tax Court’s judgment. Furthermore, the decision in the anticipated appeal case VIII R 30/19 could and should have been issued sometime in 2020. There are no good reasons why it was not issued until November 2023.

The Supreme Tax Court’s final say is unequivocal: The party involved must itself take steps to end the suspension of proceedings. It is not sufficient to file a motion (complaint) of delay with the tax court (or the Supreme Tax Court). The claim for compensation was thus dismissed.

Any claim for compensation or liability is confined to the legal entity of the court where the proceedings took place. With this in mind, the Federal Government cannot be held liable: The tax court proceeding in which the

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plaintiffs were involved was concluded at the trial court level and never reached the Supreme Tax Court. The plaintiffs themselves were not parties to the allegedly delayed model case before the Supreme Tax Court. In initial proceedings before a fiscal court, the parties to the proceedings are the plaintiff and the State as the legal body responsible for state liability arising from unreasonable delays in proceedings.

Nor was the duration of the proceedings before the lower tax court unreasonable. The duration of a mutually agreed formal stay of proceedings, taken in light of a similar case pending before the Supreme Tax Court, cannot, in principle, be regarded as an unreasonable delay.

If, in the plaintiffs' view, the model proceedings are being delayed, it could and should be sought to bring the suspended proceedings to a conclusion. The Supreme Tax Court did not object to the procedural conduct of the lower tax court from March 2024 onward. The latter could initially have expected that the tax office would correct the tax assessment on its own initiative in favor of the plaintiffs. At any rate, the subsequent conduct of the proceedings must be regarded as reasonable, the Supreme Tax Court said.

Source:

Supreme Tax Court, judgment of 25 February 2026 (X K 2/25) published on 28 May 2026.

Schlagwörter

compensation, main proceedings