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By PwC Deutschland | 19. Juni 2026

Inheritance tax: Different assessment for reasons of equity possible in specific cases

In a recent decision, the Supreme Tax Court stated that, for reasons of equity, a different assessment of inheritance tax is possible in the absence of enrichment, provided it is established that the recipient was not otherwise enriched because he or she was entitled to claims for restitution or compensation for lost value.

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Background

Inheritance tax becomes due upon acquisitions by reason of death at the time of the decedent's death. Pursuant to Section 11 of the Inheritance and Gift Tax Act (IGTA), this date is also decisive for determining the taxable value. Therefore, circumstances that arise subsequently and affect the value of the estate generally cannot be taken into account when assessing the tax.

However, this does not generally preclude the possibility that individual subsequent circumstances (arising after the cut-off date) may, as an exception, justify a different tax assessment on grounds of equity pursuant to Section 163 (1) Sentence 1 of the General Tax Code (GTC). This stems from the fact that in addition to this cut-off date, the principle of enrichment set out in Section 10 (1) IGTA must also be taken into account when determining inheritance and gift tax. If circumstances that arise after the taxable cut-off date result in the taxpayer ultimately not being enriched, and if the taxpayer is not responsible for these circumstances, the inheritance tax may be assessed at a lower amount on grounds of equity pursuant to Section 163 (1), first sentence GTC.

In the case of dispute, the heir had not received anything from the estate. Because of an incorrect certificate of inheritance issued in 2006, the erstwhile "beneficiaries" had already spent the entire estate.

The **lower tax court** granted the appeal of the plaintiff which was now confirmed by **the Supreme Tax Court**. However, the lower tax court had not sufficiently examined the matter and had not made any findings as to whether the plaintiff was entitled to valid claims for compensation against the co-heirs - who had appropriated and consumed the estate - and whether it was reasonable to expect him to enforce those claims. Therefore, the Supreme Tax Court referred the case back to the tax court of first instance for a second hearing and decision.

Source:

Supreme Tax Court, judgment of 1 April 2026 (II R 1/22) published on 18 June 2026.

Schlagwörter

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