By PwC Deutschland | 11. August 2026

Invalidation of the presumption of effective delivery of tax assessment notice by the heir

In a recently published decision, the Supreme Tax Court decided that an heir’s challenge to the receipt of a tax assessment notice, in his or her capacity as legal successor, can only disrupt the presumption of notification laid down in Section 122 (2) Number 1 of the General Tax Code if there are credible facts that raise specific and well-founded doubts regarding the circumstances of receipt.

Section 122 (2) Number 1 General Tax Code (GTC) states that a written administrative act sent by post shall be deemed as having been notified on the third day after posting if posted to an address within Germany.

Background

In the case at hand, the issue was whether the legal successor could successfully dispute the receipt of an income tax assessment addressed to the testator which the tax office had mailed more than two years before she died,

Following A's death, the plaintiff inherited her estate. When the plaintiff took over the estate at A's residence, she found the apartment to be tidy and well-organized. The tax documents were sorted chronologically and the income tax assessment notices for the years 2017 and 2018 were there. However, the tax assessment notice for the year in dispute (2016) was missing. Also, the tax documents for years 2012 through 2015, dated November 2016 - in which A had still been jointly assessed with her predeceased husband - could not be found.

Later, the authorized tax consulting firm (S) informed the tax office that, during the clearing of A's household, documents relevant to the income tax for the year in dispute had been found. The tax office stated that the income tax assessment for the year in dispute had been personally delivered to A in 2017 and provided S with a copy of the assessment notice.

The plaintiff objected and supported the documents found but denied having received the notice. The tax court of first instance granted the plaintiff's appeal.

Decision

TheSupreme Tax Court overturned the lower tax court's decision because it was wrong to assume that the presumption of receipt under Section 122 (2) Number 1 GTC is already invalidated if the legal successor of the addressee raises doubts regarding receipt of the administrative act based on circumstances that relate solely to the fact that the document could not be located at the premises of the addressee.

With this decision, the Supreme Tax Court clarifies that also the legal successor of the addressee of a tax assessment notice can rebut the presumption of receipt. Under the so-called "footsteps theory" (principle of legal succession), the heir assumes the procedural status of the addressee of the tax assessment notice in such way that the notification - which was not refuted or contested by the addressee and is therefore valid - continues to be effective against the heir.

In a situation such as the one at issue, it is necessary to present facts that give rise to well-founded (and not merely "initially well-founded") doubts regarding the notification of the administrative act. These circumstances must allow for conclusions as to the specific way the document was delivered. Such circumstances - which must be determined ex officio and given the parties' obligations to cooperate - may include, in addition to any evidence from the case file, above all a denial of receipt by the addressee himself.

Circumstances that do not allow conclusions as to the receipt of the administrative act but merely imply that the administrative act could not be located or does not exist at the addressee's premises generally do not give rise to reasonable doubts that the administrative act indeed had been delivered and posted to the addressee.

Source:

Supreme Tax Court, judgment of 11 June 2026 (VI R 16/24) published on 6 August 2026.

Schlagwörter

delivery documentation, tax assessment