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By PwC Deutschland | 21. August 2026

No reduction of lump-sum inheritance allowance for the sole beneficiary subject to unlimited tax liability

Beneficiaries of a bequest may also claim the lump-sum deduction for estate-related expenses under Section 10 (5) Number 3 Sentence 2 of the Inheritance and Gift Tax Act. According to a most recently published decision of the Supreme Tax Court, this lump-sum allowance must not be reduced if the inheritance received by the other heirs is not subject to German taxation.

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According to Section 10 (5) Number 3 Inheritance and Gift Tax Act (IGTA), the costs of the decedent's funeral, the costs of an appropriate grave marker, the costs of routine grave maintenance, including their present value for an indefinite period, and the costs incurred by the beneficiary directly in connection with the settlement, administration, or distribution of the estate or with the acquisition of the estate are deductible as estate liability when calculating the inheritance tax due. Alternatively, a **maximum lump sum** of (presently) 15,000 euros is deducted for these expenses without further proof.

In the case of dispute, the testator lived in the United Kingdom. She was succeeded by her brother, who also lived in the UK. The plaintiff, who lives in Germany, received a monetary bequest. In her inheritance tax return, she claimed the full lump sum deduction for inheritance-related expenses, which at the time amounted to €10,300. In fact, she had incurred expenses of only €13 in connection with the inheritance. The tax office allowed only the actual costs of the plaintiff's acquisition. The appeal was partially granted: The tax court of first instance applied the lump-sum deduction on a pro rata basis in relation to the value of the bequest compared to the value of the estate.

The Supreme Tax Court took a different view and held that the sole beneficiary who is personally liable for tax under Section 2 IGTA may deduct the full lump-sum amount. The lump-sum deduction for inheritance-related expenses may be claimed not only by heirs but also by other beneficiaries, such as legatees and those entitled to a compulsory share. However, it is granted only once for each inheritance and regardless of the number of beneficiaries. If, in addition to the heir with unlimited tax liability, there are other persons whose acquisition is not subject to German taxation, the lump-sum allowance is not reduced. Rather, the heir who is subject to unlimited tax liability is entitled to the entire lump-sum allowance. A reduction of that allowance would result in this amount to lapse.There are no indications to that effect in the statutes.

The Supreme Tax Court went on to point out that the lump sum approach is intended to simplify the tax assessment process. It does not require proof that costs covered by the lump sum amount have in fact been incurred. The law accurately assumes that costs typically arise in connection with an inheritance. Requiring proof that costs have been incurred, as a matter of principle, would undermine the purpose of simplification.

The tax authorities' view that a prerequisite for the deduction by the individual acquirer is the legal or ethical obligation to bear the costs was rejected by the Supreme Tax Court in light of its earlier landmark judgment II R 3/20 from 1 February 2023, published in May 2023. There, the court overruled prior practice and decided that successive heirs are entitled to claim the flat-rate allowance for inheritance/probate costs under Section10 (5) Number 3 Sentence 2 IGTA, thereby adjusting its jurisprudence to establish that claiming this flat rate does not require proof that actual costs were incurred.

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Supreme Tax Court, judgment of 17 June 2026 (II R 25/23) published on 20 August 2026.

Schlagwörter

inheritance tax allowance, lump-sum amount