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By PwC Deutschland | 25. Oktober 2026

# MoF: Compensation for waiver of usufruct on leased property

**The Federal Ministry of Finance (MoF) commented on the application of the Supreme Tax Court decision dated 10 October 2025 (case: IX R 4/24). In its circular, the MoF points out that - contrary to this decision by the Supreme Tax Court - previous case law continues to apply to contractually agreed waivers of the right of usufruct until the end of the day on which the decision was published in the Federal Tax Gazette.**

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In its judgment of 10 October 2025 (case IX R 4/24) the Supreme Tax Court held that the remuneration for waiving a right of usufruct to a private property is taxable as compensation in accordance with Section 24 No. 1 letter a of the Income Tax Act if the owner of the usufruct right at the time of the waiver has actually leased the property and earned taxable income from rental and leasing (see **blog post of 7 December 2025**). With this decision, the Supreme Tax Court departed from the case law and administrative practice of more than 30 years, under which consideration received for waiving the exercise of a right of usufruct was not treated as taxable compensation.

Furthermore, the Supreme Tax Court noted that this applies irrespective of whether the taxpayer receiving compensation for lost or foregone income was under legal, economic, or actual pressure at the time the agreement for waiver was concluded. This is also in deviation from established case law and administrative practice dating back decades.

**After discussion with the supreme tax authorities of the federal states, the previous case law - in deviation from the aforementioned decision - continues to apply to contractually agreed waivers of usufruct rights until the end of the day on which the decision was published in the Federal Tax Gazette.**

**Source:** MoF, circular of 21 October 2026 (IV C 1 - S 2253/00047/032/015)

**Schlagwörter**

compensation payment, waiver