

By PwC Deutschland | 13.09.2012

No deduction for ship charter for customer entertaining

The Supreme Tax Court has held that the costs of chartering a sailing ship for customer entertainment during a regatta are disallowable in full.

The Income Tax Act allows a deduction for 70% of business entertainment costs, as long as the entertainment is not excessive in the circumstances. However, it explicitly disallows all costs associated with the invitation of customers and other business partners to hunting, yachting or similar activities. As against this, a finance ministry decree on sponsoring allows a partial deduction for the costs of inviting business partners to watch sporting events from a company box on the grandstand. A company attempted to take advantage of this decree in connection with the charter of a sailing ship from which some 50 business associates were able to watch a regatta from Kiel harbour during the annual "Kiel Week" celebrating the age of sail. The tax office and now the Supreme Tax Court took the view that whilst the sailing vessel might or might not be a yacht, it was at least something "similar". Accordingly, all expenses incurred in its charter, including the entertainment on board were disallowable *per se*, given that the taxpayer had made no attempt to claim that the invitation had been in connection with a business activity involving the ship herself, the one exception to the general rule. The court refused to admit parallels to the sporting events of the decree as these involved sponsorship in the interests of publicity for the company as well as a service package provided by the event organiser, both of which were absent in the present case.

Supreme Tax Court judgment IV R 25/09 of August 2, 2012, published on September 12

Keywords

entertainment, ship charter, yachting