Downloaded from Blogs on 29.11.2026 06:35

By PwC Deutschland | 12 February 2014

Interest on tax refunds taxable

The Supreme Tax Court has held that interest received on a tax refund due is taxable income despite the non-deductibility of interest payable on an outstanding liability.

Downloaded from Blogs on 29.11.2026 06:35

Interest on income tax outstandings runs at 6% p.a. simple interest for each month from the second following 1st April after the relevant tax year. This applies equally to refunds and to liabilities. Interest paid is explicitly a non-deductible expense, whilst at the time the Income Tax Act was silent on the tax position of an interest receipt. In practice, the tax authorities generally saw it as taxable, if only under the general principle of taxing all income other than specifically exempted items. In this they were originally supported by a Supreme Tax Court case, although that court subsequently modified its position. In 2010, the tax liability of interest received on refund claims was explicitly enacted into the statute with application to all cases still open. A taxpayer with a large refund claim settled in 2007 challenged the tax office position on the grounds that interest on tax debts due to and from the tax office was similar and the treatment of receipts should parallel that of payments. He also challenged the application of the 2010 statute to a 2007 assessment as being an unconstitutional, retrospective change to the disadvantage of the taxpayer.

The Supreme Tax Court has now upheld the position of the tax office. Tax liabilities were fundamentally different from refund claims due, so there was no reason for comparable treatment of interest income and expense resulting from outstandings. Accordingly, there was no reason to disapply the 2010 change in the law as being inconsistent with other provisions. Its retroactive effects were – exceptionally – not unconstitutional, as it merely restored the previous position as generally understood on the basis of the previously valid case law.

Supreme Tax Court judgment VIII R 36/10 of November 12, 2013 published on February 12, 2014

Keywords

interest, refund claim, tax refunds