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By PwC Deutschland | 19 November 2024

Funeral costs paid under a death insurance policy as deductible estate liability

If the testator has assigned benefits from a death benefit insurance policy to a funeral home during his lifetime the estate is increased by the heirs' claim for a benefit in kind towards the funeral home. The costs of the funeral are fully deductible as liability of the estate.

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Background

The testator had concluded a death benefit insurance and transferred the entitlement to the insured sum during her lifetime to a funeral home to cover the costs of her funeral. After her death, the funeral home invoiced a total amount of €11,653.96 for its services. Of this the insurance paid € 6,864.82.

The tax office took the assigned amount of € 6,864 from the death benefit insurance as a taxable transfer of value passing on death. As to the deduction of estate liabilities - including the costs for the funeral – the tax office only applied the lump sum for inheritance costs in accordance with Section 10 (5) No. 3 sentence 2 of the Inheritance Tax and Gift Tax Act of € 10,300.

Decision

First, the Supreme Tax Court confirmed that - because of the death benefit insurance taken out by the deceased - a claim for benefits in kind was transferred to the plaintiff as heir, which increased the taxable estate in the amount paid by the insurance company.

However, the funeral costs are not only deductible up to the maximum lump sum of € 10,300 as provided for in Section 10 (5) no. 3 sentence 1 Inheritance and Gift Tax Act, but rather must be taken in full as deductible liabilities when calculating the inheritance tax due.

The case has now been referred to the court of first instance in order to finally determine the precise amount of the total estate liabilities.

Source:

Supreme Tax Court, decision of 10 July 2024 (II R 31/21) - published on 14 November 2024.

Keywords

insurance cover, limited inheritance tax liability