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By PwC Deutschland | 21 April 2025

No deduction of income-related expenses if taxpayer moves to new residence to establish a separate workspace

In a most recent decision, the Supreme Tax Court held that expenses incurred by the taxpayer for moving to another home to set up a separate workplace (for the first time) are not deductible as income-related expenses. This also applies if the taxpayer is forced to work from home - as in times of the coronavirus pandemic - or tries to reconcile work and family life by working from home.

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Background

The plaintiffs lived with their daughter in a 3-room apartment and only worked from home in exceptional cases. From March 2020 (year of dispute) - initially due to the corona pandemic - the plaintiffs worked predominantly from home, mainly in the living/dining room. From May 2020, they moved into a five-room apartment in which they set up and used two separate rooms as home office. They claimed the expenses for the use of the workspace and the costs for the move to the new apartment as income-related expenses. The tax office accepted the expenses for the office but rejected a deduction of the relocation costs for lack of work-related motivation.

The lower tax court confirmed the deduction of income-related expenses for the relocation and upheld the claim in this respect. The move to the larger apartment was justified for work reasons as it had made the plaintiffs' working conditions significantly easier. Both now had their own study and could therefore also pursue their professional activities undisturbed when working there.

Decision

The Supreme Tax Court reversed the decision of the former court and confirmed the opinion of the tax office.

The home is generally considered to be part of private life and the costs for a change of residence are therefore generally considered to be non-deductible living expenses from a tax point of view. It would be different if the taxpayer's professional activity was the decisive reason for the change of residence and private circumstances played a subordinate role at best. This can only be affirmed based on circumstances outside the home, for example if the move was the result of a change of job or if the time required for the daily travel to the workplace was reduced by at least one hour per day as a result of the move.

The opportunity to set up a workroom in the new home (for the first time) is not sufficient to justify a job-related motivation for the move. The choice of a home, in particular its location, size, layout and use, rather depends on a variety of factors such as the taxpayer's taste, lifestyle, available financial resources, family situation and other privately determined preliminary decisions. The increasing acceptance of working from home, teleworking and remote working (independent location/mobile working) does not change the aforementioned conclusion. The decision to use a room in the new and larger home as a study (for the first time) or to continue to carry out the work in the private living area in a “work corner” is not based almost exclusively on job-related criteria, even in times of a changed working world. This also applies if the taxpayer has no other workplace (outside the home) or is trying to reconcile work and family life by working from home. Finally, the Supreme Tax Court points out that professional motivation for the move cannot be reinforced by the fact that - as in the present case - the expenses for the use of the home office are deductible as income-related expenses.

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Keywords

Home office