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By PwC Deutschland | 30 November 2025

Begin of statutory limitation period not before submission of gift tax return

In a fundamental judgment, the Supreme Tax Court decided that in cases where the taxpayer has fulfilled the notification obligation under Section 30 (1) or (2) of the German Inheritance Tax Act and the tax office requires the submission of a gift tax return the deferral of the limitation period for gift tax assessment only ends when the gift tax return is filed but no later than at the end of the third calendar year after the year in which the tax arose.

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Legal background

Section 170 Fiscal Code deals with the beginning of the period for assessment:

(1) The period for assessment shall begin at the end of the calendar year in which the tax has arisen, or a conditional tax has become unconditional.

(2) Notwithstanding the provisions of subsection (1) above, the period for assessment shall begin

1. where a tax return or a self-assessed tax return is to be submitted or a notice posted, at the end of the calendar year in which the tax return, the self-assessed tax return or the notice is submitted, at the latest however at the end of the third calendar year following the calendar year in which the tax has arisen, unless subsection (1) above prescribes that the period for assessment shall begin later (…)

(Legal wording taken from the official translated version issued by the Federal Ministry of Justice)

Case in dispute and decision of the Supreme Tax Court

The decision relates to a case in which the plaintiff, the sole shareholder of a limited liability company (GmbH), received some €4 million from his mother in August 2014. This gift was subject to the proviso that the amount be contributed to GmbH as equity capital in order to finance the purchase of a piece of land. After the plaintiff reported the gift to the tax office in December 2014 the tax office requested that a gift tax return be filed which the plainitff submitted in February 2015. The tax office then issued a tax assessment notice in March 2015 asking for gift tax of some €290,000. In another tax return filed in August 2019 the plaintiff stated that the value of his shares in the limited liability company had increased by some €1,532,000. In November 2019 the tax office assessed the additional amount of gift tax while taking into account the increase in the value of the shares and other previous gifts.

The plaintiff objected to these assessments claiming that the assessment period had already expired due to the timely notification of the gift transfer in December 2014. The **tax court of first instance** dismissed the appeal as unfounded and upheld the tax office's view that timely notification alone does not end the suspension of the limitation period which only ends when the gift tax return is filed.

On further appeal, **the Supreme Tax Court** confirmed the decision of the former tax court.

The requirement for notification is solely to ensure that all acquisitions are registered as completely as possible and primarily serves to make it easier for the tax office to check whether and who should be requested to submit a tax return in individual cases. In contrast, the tax return must contain a list of the items belonging to the estate and other

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information necessary to determine the nature and value of the acquisition thereby enabling the inheritance tax or gift tax to be assessed, the Supreme Tax Court explained.

Source:

Supreme Tax Court, decision of 27 August 2025 (II R 1/23), published on 27 November 2025.

Keywords

gift tax, limitation period