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By PwC Deutschland | 05 June 2026

Prior year losses still tax deductible after sale of chartered aircraft

The Düsseldorf Tax Court had to decide whether, during the years in dispute from 2012 to 2014, losses stemming from the lease of an aircraft could still be considered for tax purposes after the aircraft was sold. The key point was the question whether there was an intention to generate income on the part of the plaintiffs. Unlike the tax office, the tax court ruled in the plaintiff's favor.

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Background

Specifically, the dispute involved the intention of making a profit from leasing an aircraft through a charter company despite a seven-year period of losses which was followed by the sale of the aircraft.

In 2006, the plaintiffs' testator purchased a 1990 Cessna private aircraft designed to carry six to nine passengers. He held the aircraft as part of his personal assets. The purchase was financed through a bank loan. The aircraft was initially chartered through a professional charter company (from 2006 to 2011) and, following that company's bankruptcy, through another company. The decedent consistently incurred losses from the chartering business. The aircraft was ultimately sold in 2014.

In the income tax returns for 2012 and 2013, these losses were reported as income-related expenses from rental. In the course of a tax audit in March 2020, the plaintiffs submitted a retroactively prepared projection of net income for the period from 2006 to 2035 which showed an overall surplus.

The tax office took the view that there was no intention of generating a profit. In particular, the forecast prepared retrospectively did not constitute an objective indicator that would suggest an attempt to make a profit. The contracts with the charter companies were not suitable for generating a profit in the long term.

Decision

The Düsseldorf Tax Court granted the appeal.

After considering all circumstances, the court affirmed the intention of the decedent to earn income, and the losses were to be taken into account for tax purposes. The court stated that aircraft leasing did not fall within the typical scope of a personal hobby. Rather, it was operated professionally through the involvement of charter companies. The decedent himself did not hold a pilot's license and did not use the aircraft for vacation or recreational purposes. The court found no evidence of personal motives, particularly tax-saving motives or intentions to enhance one's social standing.

Accepting the losses is economically justifiable, particularly in light of the global financial crisis beginning in 2007, the change of the charterer, and the subsequent decision to sell. Furthermore, the retrospective forecast covering a period of thirty years also shows a positive total surplus. There are no concerns regarding the length of the selected forecast period because with regular maintenance the aircraft can remain operational for many decades. Therefore the selected forecast period was not unreasonable. Forecasts, especially those covering a lengthy period, are by their very nature subject to some degree of uncertainty, as was the case here. The clearer the forecast, despite these uncertainties, the better its probative value.

Furthermore, there is no indication that the decedent subsequently purchased another

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aircraft. According to the court, it is entirely reasonable to attribute special prestige value to the ownership of an aircraft that has been permanently handed over to a charter operator.

The appeal to the Supreme Tax Court was denied. The judgment is thus final.

Source: Tax Court of Düsseldorf, decision of 21 January 2026 (9 K 1503/24 E,F); officially published in April 2026.

Keywords

prior loss, profit realisation