By PwC Deutschland | 20 July 2026

Combination of several commercial activities after acquisition of another business

If a natural person engages in multiple commercial activities, these activities may be considered as one business or as multiple independent businesses either because the activities are of the same type or different in nature. As the Supreme Tax Court pointed out in a most recently published judgment, this depends on the economic, organizational, and financial circumstances.

The case in dispute concerns the question whether, under trade income tax principles, a sole proprietor operated a single business or two separate businesses: Since 1999, the plaintiff had operated a wholesale business dealing in waste materials which also involved processing activities (recycling). In 2013, he inherited the scrap metal business previously operated by his mother at the same address. He continued this business and maintained separate books and accounts.

The plaintiff submitted the E-balance sheets for the "scrap metal business" to the tax office under a separate personal tax number and continued to file separate trade tax returns for the "scrap metal business" and for "recycling." On this basis, the plaintiff claimed investment deduction allowance (IDA) that, in total, exceeded the maximum allowable amount under Section 7g of the Income Tax Act (ITA) because he assumed that the full amount can be claimed twice.

The tax office, on the other hand, took the view that, since the plaintiff had taken over the "scrap metal business," a single business operation existed. It therefore reduced the IDA and issued only one trade tax assessment notice for each of the years in dispute. The appeal against this decision was dismissed by the tax court of first instance.

The Supreme Tax Court granted the appeal of the plaintiff but ultimately referred the case back to the lower tax court for the following reasons.

Even in the case of the acquisition of a previously independent business, the activities are, at the outset, neither clearly similar nor are they clearly different in type; it therefore requires an examination of the economic, organizational, and financial relationship.

The taxpayer's personal intention to keep two business operations running is of secondary importance. Rather, it must be determined whether changes in business processes have led to synergies. In addition, the groups of suppliers and customers must be taken into account.

The closer the commercial activities are to one another, the more likely it is that they will be considered a single business operation conducted by a natural person. Only in the case of (truly) similar activities does the presumption apply from the outset that a single business operation exists. Otherwise, clarification of the economic, organizational, and financial connections must be provided. General assumptions about business processes are not sufficient in this respect. In the case in dispute, the tax office and the lower tax court must now establish further facts. For this reason, the Supreme Tax Court overturned the earlier decision and referred the case back to the lower tax court.

Summary: Depending on the number of separate business operations following the additional acquisition, one or two investment deduction allowances may be claimed, and the tax-free amount of EUR 24,500 for trade tax pursuant to Section 11 (1) Sentence 3 Number 1 of the Trade Tax Act be used multiple times.

Source: Supreme Tax Court, judgment of 28 January 2026 (X R 8/23) published on 9 July 2026.

Keywords

business acquisition, separate operating business units