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Profit threshold for claiming investment deduction allowance under Section 7g Income Tax Act

In a recent judgment, the Supreme Tax Court confirmed that, when determining whether the profit threshold for claiming the investment deduction allowance has been exceeded, off-balance-sheet adjustments must also be taken into account, including trade tax, which must be added as a non-deductible business expense pursuant to Section 4(5b) of the Income Tax Act .

In the year in question, **the plaintiff** operated a food retail business and determined the profit for the fiscal year corresponding to the calendar year using the business assets comparison method. Her tax balance sheet showed a profit of €199,310. In her opinion, this amount also constituted the profit relevant for determining the profit threshold within the meaning of Section 7 g (1) Sentence 2 No. 1 Letter b of the Income Tax Act (ITA). Off-balance-sheet add-backs and adjustments were not to be taken into account. The profit threshold of €200,000 was therefore not exceeded, and the claim for investment deduction allowance was admissible.

However, **the Supreme Tax Court** put a spoke in the wheel and drew attention to its earlier judgment of 1 October 2025. In that judgment, it found that the term “profit” as used in Section 7g (1) Sentence 2 No. 1 ITA is understood to be the taxable profit as defined in Section 2 (2) Sentence 1 No. 1 ITA.

When checking whether the profit threshold has been exceeded, off-balance-sheet adjustments must therefore also be considered. The relevant profit in the case in dispute, taking into account off-balance-sheet adjustments, thus amounted to €209,796.

The Supreme Tax Court also rejects the parallel drawn to other definitions of profit, such as those in Section 4 (4a) ITA (restriction of deductible interest expense in the case of excess drawings) or Section 34a (2) ITA (re. tax advantages for retained earnings). These provisions pursue different regulatory objectives, in particular the determination of distributable profits available for withdrawal. In contrast, Section 7g ITA defines small and medium-sized enterprises that are eligible for the subsidy.

In the opinion of the court, different purposes justify different definitions of “profit.” This interpretation is consistent with established case law, according to which the term “profit” must be interpreted in its context.

The Supreme Tax Court also has **no constitutional objections** to this conclusion. Since the definition of “profit” in Section 7g (1) Sentence 2 No. 1 ITA is sufficiently clear there is no need to decide whether this would also be called for to avoid a violation of the general principle of equality if equal treatment had not already been a legislative objective.

Source:

Supreme Tax Court judgment, of 18 June 2026 (III R 38/23) published on 24 September 2026.

Keywords

allowances, investment grant