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By PwC Deutschland | 30 October 2026

Aircraft in parking position as pilot's primary place of work

In a recently published judgment, the Supreme Tax Court decided that a pilot’s primary place of work also includes an aircraft parked at its home airport. Until the aircraft leaves its parking position it is considered part of the airport grounds. Refueling and safety checks in the cockpit are therefore activities performed at the primary place of work.

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Background

The new travel expense law in force since 2014 contains new rules for tax deduction of travel expenses. One major feature was to replace the (old) definition of the “regular workplace” by a “primary place of work”. The primary place of work, per definition, is the place where the employee is permanently assigned to, in a firmly established place of business of the employer, or a company or a third party determined by the employer.

According to the case law of the Supreme Tax Court, the existence of a primary place of business is tied to a fixed business facility where the taxpayer performs, in any event, more than a negligible portion of the professional work required under his or her employment contract.

Facts of the case in dispute

The plaintiff, who worked as an employed pilot, claimed travel expenses from his residence to his home base airport in accordance with company’s’ business travel guidelines by stating that the airport was not his primary place of work. He explained that he had only done a negligible amount of work at the (stationary) airport. In fact, he had performed his work exclusively on the aircraft, which obviously did not constitute a fixed business facility.

Neither the tax office nor the tax court of first instance followed these arguments. The plaintiff’s appeal before the Supreme Tax Court was also rejected, for the reasons explained below.

That is what the Supreme Tax Court had to say:

The Supreme Tax Court did agree with the plaintiff that, in principle, an aircraft - as such - does not constitute a fixed business facility. The court also took into account the plaintiff’s submission that he had carried out only a limited amount of work on the airport grounds or inside the airport building. Nonetheless, this argument ultimately failed to justify the deduction of travel expenses in accordance with the rules governing business travel.

After all, a pilot’s fixed place of work includes not only the airport grounds and the buildings located there but also an aircraft in parking position. Once the aircraft leaves its parking position, it enters flight operations and is no longer part of the airport grounds.

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To the Supreme Tax Court, it is beyond doubt that the plaintiff had performed his professional duties as a pilot to a sufficient extent while the aircraft was in its parking position. During this phase, he was responsible for organizing and supervising the refueling process (from the cockpit) and for conducting extensive pre-flight safety and functional checks to determine the aircraft's suitability for flight. Hence, since the plaintiff worked at a fixed location, his travel expenses could be considered as income-related expenses only up to the amount of the (lower) mileage allowance.

In addition, the Supreme Tax Court points to an earlier judgment stating that the rescue station to which a paramedic is assigned is also his primary place of work if he performs preparatory and follow-up tasks there in connection with rescue operations in the ambulance.

The plaintiff, on the other hand, pointed to a decision from 2 September 2021 (case VI R 25/19) where the Supreme Tax Court held that the garbage depot does not constitute a garbage collector's primary place of work if he merely listens to the route assignment announcement, picks up the route log, vehicle documents, and keys, and checks the vehicle's lights.

The Supreme Tax Court disagreed: In the current case, the plaintiff - unlike the plaintiff in the decision cited - did not merely perform minor tasks but rather carried out work at the airport that was both quantitatively and qualitatively sufficient and typical of the profession through the organization and supervision of the refueling process as well as the extensive mandatory pre-flight safety and functional checks.

Note: The current decision does not mark a tightening of the court's case law. The Supreme Tax Court firmly holds to its established case law that, due to its lack of a fixed location, an aircraft itself cannot generally constitute a primary place of business.

Source: Supreme Tax Court, judgment of 9 September 2026 VI R 4/25 published on 29 October 2026.

Keywords

business travel, regular place of work