

Company-owned holiday home: the Swiss Supreme Court further tightens its position

Federal Supreme Court, Decision 9C_107/2025 of January 26, 2026

THE CASE

A Swiss limited company (SA) whose sole asset is a vacation home conducted major renovation work and claimed a VAT refund (input tax) in the amount of nearly CHF 865,500. The home was rented exclusively to the sole shareholder, who used it as a personal vacation residence. Following an audit, the Federal Tax Administration (hereinafter: the FTA) demanded full repayment of this amount and retroactively removed the company from the VAT register.

AN EVOLVING JURISPRUDENCE FRAMEWORK

The question of a company's recovery of input tax when it makes an asset available for a shareholder's private use is not a new matter. It initially arose in connection with companies owning aircraft or luxury vehicles, and it was primarily from the perspective of tax evasion that our High Court established this case law, holding that such arrangements, devoid of any economic rationale of their own, had no other purpose than to improperly obtain an input tax deduction.

> The decision of January 26, 2026, marks a new and broader phase. The Supreme Court adopts a more radical approach, applied for the first time to real estate companies: thus, a company whose activity consists solely of making a property available for the private use of its shareholder simply does not engage in a commercial activity within the meaning of the VAT Act. It is therefore not subject to VAT and has no right to deduct input tax, regardless of the legal form of the arrangement.

WHAT THIS MEANS FOR YOU

If you own a second home or vacation home through a company subject to VAT and that property is used primarily or exclusively for your private needs or those of your relatives, you should have your situation reviewed. This recommendation goes far beyond the case of vacation homes; it applies to any private use of business assets by their owner or their relatives.

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Indeed, in the event of an audit, the consequences can be severe: repayment of the full amount of input tax deducted, retroactive removal from the VAT register, and overdue payment interest at a particularly high rate.

> The amount at stake in this case exceeded CHF 865,000. The question should be therefore raised before an audit by the FTA, and not after.

Our **VAT specialists** are here to help you analyze your situation and advise you on the steps you should take. Please feel free to contact us.

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