

By the Judgement of 15 January 2026 No. 1-II, the Constitutional Court assessed constitutionality of Article 214¹⁰ (item 2) of the Tax Code of the Russian Federation in connection with Article 567 (item 2) of the Civil Code of the Russian Federation

The specified provision of the Tax Code was considered insofar as, in conjunction with the noted provision of the Civil Code, it serves as a basis for resolving the issue of the obligation of an individual to pay personal income tax (hereinafter — PIT) in connection with the alienation by such individual under an exchange agreement of real estate property for purposes not related to business activities.

The challenged legislative provision was declared incompatible with the Constitution to the extent that, in conjunction with the aforementioned provision of the Civil Code, it allows for arbitrary resolution of the issue concerning the determination of income subject to PIT of a taxpayer acting in good faith in the event of an exchange of real estate property for the specified purposes.

Until the appropriate legislative changes are made, in cases where a taxpayer exchanges real estate property for the specified purposes, PIT shall be levied on the corresponding difference – if the equivalence of the completed exchange is rebutted, namely upon establishing the absence of reasonable motives (including non-economic motives) for the exchange when the cadastral value of the real estate property received as a result of the exchange substantially exceeds the cadastral value of the real estate property alienated (and if the cadastral value of the real estate property has not been determined or is not subject to application in accordance with legislation on state cadastral valuation, the market value determined by the tax authority on the basis of a valuation report shall apply), including taking into account any payments under such agreement.

The Constitutional Court specifically noted that the recognition of the challenged legislative provision as incompatible with the Constitution, as well as the specified features of the execution of this Judgement, shall not constitute a ground for recalculating the amount of tax liabilities of an unlimited number of taxpayers who fulfilled the obligation to pay PIT in respect of periods preceding the issuance of this Judgement and did not contest the relevant obligation (or its amount) in the manner prescribed by law, nor shall it constitute a ground for reviewing judicial acts in cases other than that of the applicant, where such judicial acts have entered into legal force.