

By the Judgement of 22 April 2026 No. 26-II, the Constitutional Court assessed constitutionality of Article 217¹ (paragraph 2 of item 2) of the Tax Code of the Russian Federation

This legal provision was the subject of consideration insofar as the scope of application of the special procedure provided therein for calculating the minimum ownership period for residential premises in the event of its sale by a citizen – where such premises were provided to him in exchange for one expropriated by public authorities – is limited by the implementation of the renovation programme in the city of Moscow.

The challenged provision was recognised as not contradicting the Constitution to the extent that it was introduced into tax regulation to protect the legitimate expectations of citizens and to provide the fullest possible compensation for possible losses arising in connection with the buyout of a citizen's residential premises or shares therein in connection with the inclusion of an apartment building where such premises are located in a renovation programme, which is implemented in accordance with the Law of the Russian Federation No. 4802-I «On the Status of the Capital of the Russian Federation» of 15 April 1993.

At the same time, the contested provision was recognised as not conforming to the Constitution insofar as it does not establish the possibility of applying the same special procedure as in this provision for calculating the minimum ownership period for a residential premises (or shares therein) provided to a citizen in exchange for one expropriated, the ownership rights in which were terminated by a decision of public authorities on grounds other than the renovation programme in the city of Moscow.

Until the appropriate legislative changes are made, the special procedure established in the contested provision should be applied to cases concerning residential premises (shares therein) provided to a citizen in exchange for one expropriated, the ownership rights in which were terminated by a decision of public authorities on grounds other than the renovation programme in the city of Moscow, if the apartment building in which such residential premises are located was not recognised in the established procedure as dilapidated and subject to demolition or reconstruction, or if the residential premises themselves were not recognised as unfit for habitation.

This Judgement and the specified features of its enforcement shall not serve as a basis for reviewing the amount of PIT obligations fulfilled by citizens other than the applicant in the case for periods preceding the adoption of this Judgement, nor for reviewing final judicial acts in cases other than the applicant's. It shall likewise not serve as a basis for refusing to apply the provisions of laws of constituent entities of the Russian Federation if, in accordance with Article 217.1

(subparagraph 1 of paragraph 6) of the Tax Code, they establish a reduction of the minimum ownership period for a residential premises or a share (shares) therein in the situation under consideration, and the application of the reduced period is not conditioned on the requirement that the building containing the vacated premises has not been recognised as dilapidated and subject to demolition or reconstruction, or that the premises themselves have not been recognised as unfit for habitation.