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Duty Allowance Also Applies in the Case of Auctions

The Supreme Court of Hungary (Kúria) has clarified that the "replacement purchase" duty allowance is not limited to traditional sale and purchase agreements — it may also apply to auction sales, potentially saving affected individuals hundreds of thousands of forints.

In a recently concluded tax case, the Kúria ruled that the sale of a property through auction qualifies as a sale for the purposes of applying the duty allowance for a replacement purchase under the Hungarian Act on Duties (Itv.).

In practical terms, this means that properties sold at auction may also qualify for the partial transfer duty allowance, which until now had been recognized by the tax authorities only for conventional sale contracts.

What Is a "Replacement Purchase," and When Does the Allowance Apply?

According to the Act on Duties (Itv.), when a private individual purchases a new residential property and:

- sells their previous home within three years before the new purchase, or
- sells it within one year after the purchase,

then the **duty base** is not the full purchase price of the new home, but only the **difference** between the market values of the two properties.

Up to now, the tax authority had taken a strict interpretation of this rule: the allowance was only granted if the "old" property had been sold under a private sale contract. In the case of a forced sale by auction, the authority argued that no transfer of ownership technically occurs, since the transfer is based on an administrative act rather than a mutual agreement between the parties.

In other words, the auction buyer's ownership is considered an original acquisition, not derived from the previous owner — and therefore, according to the tax authority, the auction did not count as a "sale" for the purpose of the allowance.

The Kúria's Decision – A Broader Interpretation of the Law

The Kúria took a different view. The Court held that the purpose of the "replacement purchase" rule was to avoid double taxation for individuals who sell their previous home and then buy a new one.

Therefore, when interpreting the rule, the economic substance of the transaction must prevail over its formal legal classification.
The Court emphasized that a buyer at auction pays the same transfer duty as a buyer under a standard sale contract. Hence, there is no justification for denying the allowance simply because the previous property was sold through a forced sale rather than by private agreement.

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What Does This Mean in Practice?

Under the Kúria's ruling, the duty allowance must also be applied when the previous property was sold at auction — not only when it was sold by private contract.

This is a favorable development for individuals who lost their previous home, for example, through enforcement proceedings but later purchase a new one. The decision may result in significant tax savings, potentially amounting to hundreds of thousands of forints.