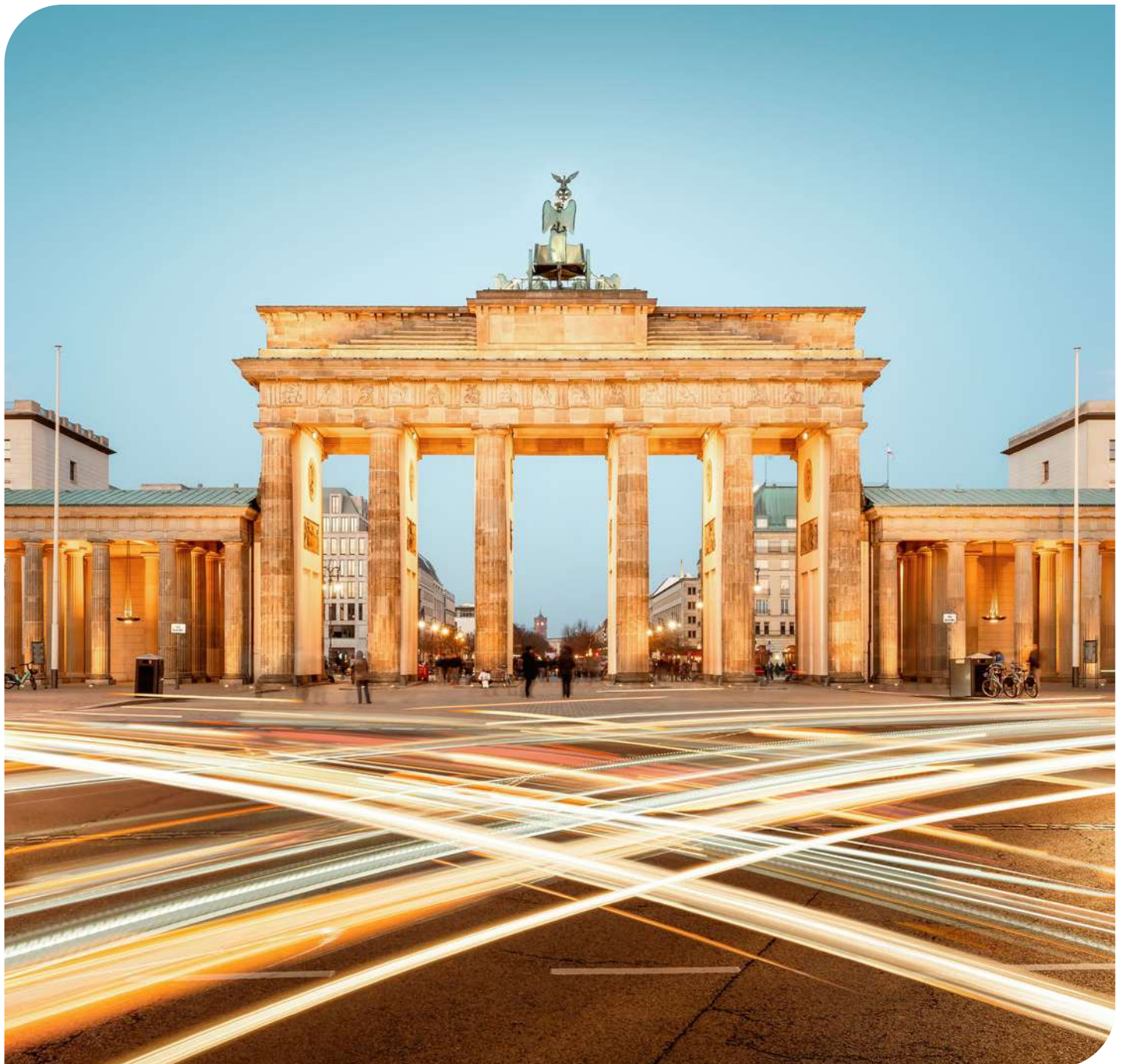


## Investing in Germany



**Audit. Tax. Advisory.**

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# About Nexia

Nexia GmbH is one of the largest independent and partner-led accounting and tax advisory firms in Germany. Over 450 employees, including more than 120 public auditors, certified tax advisors and licensed lawyers in ten offices, take care of clients operating above all in the middle market and handle any questions they may have concerning audits or tax advice as well as transaction, management and legal consulting.



We are glad to assist you in founding your company in Germany. We can support you in understanding the regulatory environment, in registering your German company and in complying with tax requirements.

After having founded your company, we can offer you the following services: outsourcing solutions for bookkeeping, payroll accounting and tax compliance. We are your trustworthy management consultants and can guide you in your growing your business in Germany.

Should you wish to expand by acquisition, we can support you in identifying and acquiring the appropriate German companies for your business. We are also glad to assist you in becoming a publicly listed company on a German stock market in order to give you access to the capital markets.

As a member of Nexia International, an audit, tax advisory and consulting network with more than 185 member firms in 120 countries and a turnover of about USD 2.6 billion, we are in a position to offer you first class consulting services for supporting your international planning. Through our network we have internationally recognised industry and service line experts serving in 520 offices worldwide with about 22,300 employees at our disposal. Although each member firm of the network is independent, we have, nevertheless, decided to co-operate with each other resulting in strong professional relationships and efficient collaboration.

Our guide provides you with a comprehensive overview of the most important considerations when running a business in Germany. Please be aware that our guide is not a substitute for professional advice. Our experts in our offices throughout Germany are glad to be at your disposal and to focus on your individual needs and special circumstances.



# A Profile of Germany

**Germany is the largest national economy in Europe and ranks third in the world after the USA and China. As an export nation, Germany ranks third worldwide and is an important player on the global market. The service industry plays a decisive role and generates 70% of the gross domestic product of the country.**



Germany with its population of over 84 million is not only the largest country in the European Union but also an important player on the European stage. In addition, Germany is known worldwide as being an important financial centre and benefits from the world's largest common economic area with around 450 million consumers in the EU single market.

With its excellent trading structures and having made contacts in the European markets over many years, Germany plays a decisive role in shaping the future of Europe.

By East and West having grown together, Germany has at its disposal know-how in the emerging markets in Central and Eastern Europe. "Made in Germany" stands for quality and innovation worldwide, which is reflected in the numerous patent registrations in Germany. Its highly developed infrastructure, its dense motorway network and its location in the centre of Europe makes it a hub for the European freight industry.

## **Geography, Climate and Natural Resources**

With a surface of about 357,000 km<sup>2</sup> Germany is the fourth largest country in the European Union after France, Spain and Sweden.

Germany is characterised by a varied landscape ranging from the flat lowlands of the North Sea in the north and the foothills of the Alps in the south. It is located in a moderate cool climate zone and the prevailing westerly winds ensure a daily change in the weather.

Although Germany is rich in natural resources (oil, natural gas, black coal, brown coal, iron, copper, lead, zinc, silver, tungsten, salt, potassium, gypsum and wood), it imports more raw materials than it produces itself because it is less expensive and more efficient than mining for these materials on its own land.

## **Language**

The official language is German. English is the second most often spoken language in Germany. Many Germans also speak the languages of its neighbouring countries, among which are French, Dutch, Polish, Italian as well as Spanish.

## Political System

The political system in Germany is a parliamentary democracy. The Basic Law, serving as the constitution, lays down the fundamental principles and structures of the political system. As a federal republic, Germany consists of 16 individual federal states. Federalism in Germany is an important part of the political system and is based on a separation of powers between the federal government and the federal states. Each federal state has its own structures of authority and responsibilities as laid down in the constitution.

The legislative branch is represented by the Federal Parliament and the Federal Council. The Federal Parliament is the most important legislative body and consists of representatives, who are elected in a General Election every four years. The Federal Council is made up of representatives of the federal states and has a say in laws affecting the interests of the federal states.

The head of state in Germany is the Federal President. His responsibilities are above all of a representative nature. The government is led by the Chancellor and by ministers appointed by the Chancellor.

The capital of Germany is Berlin, which is the legal seat of numerous political institutions.

## Legal System

The German legal system is based on the principle of a separation of powers as anchored in the constitution. The three powers – legislative, executive and judiciary – are independent of each other and at the same time control or serve as a check on the power of each other.

The legislative being the Federal Parliament and the Federal Council issues laws regulating how the citizens of Germany live together. The executive implements these laws and is responsible for their being obeyed. The administration and the police, among others, are part of the government.

The judiciary being the courts examines compliance with the laws and dispenses justice. It is independent of the other two powers and should ensure that legal disputes are settled fairly and justly.



## Economic System

The German economic system is a social market economy based on the principles of a free-market economy in association with the idea of social equalisation and security. Private property and the free markets ensure the advantages of a balanced system of supply and demand. State intervention serves to improve the results of the market and to ensure social peace and justice. That is why the state can intervene if there is a danger of a monopoly. At the same time it must promote individual responsibility.

The free-market economy and the social action of the state in Germany are not to work against each other but rather are to work together to harmonise social responsibility and increasing prosperity.

# Germany in Figures

## The Federal Republic of Germany

The Federal Republic of Germany is a federal nation consisting of

**16 states**

Geographical location

**Central Europe**

Capital

**Berlin**

Parliament

**Bundestag (Federal Parliament)  
and Bundesrat (Federal Council)**

Time zone

**Central European Time (CET)**

Country code

**+49**

Internet TLD

**.de**

## Country data

Area

357,021 sq. km

Land

349,223 sq. km

Water

7,798 sq. km

Neighboring countries

Denmark  
Poland  
The Czech Republic  
Austria  
Switzerland  
France  
Luxemburg  
Belgium  
Netherlands



# Founding a Company in Germany

Germany offers excellent investment opportunities. Globalisation and international exchanges are a reality for German companies. Having the largest population in the EU, the country has a modern infrastructure and skilled human resources that attract foreign investors and creates millions of jobs.

To promote investments, the country offers incentives, subsidies, flexible labour markets and a reduced bureaucracy. German law is tailored to the needs of companies.

Should you decide to investment in a company in Germany, you must examine the legal requirements and, if applicable, also have fulfilled them before founding a company.

Such requirements strongly depend on which legal form is selected. As an investor, it is also important to have a solid foundation, upon which one can build. Good advice is of decisive importance throughout the entire decision process. The council of lawyers, tax advisors, auditors and management consultants with the required professional knowledge should be sought out right from the beginning.





## The points to be considered:

- When a company is founded or acquired, it must be registered with the Trade Office.
- Although the tax authorities, as a rule, inform the Trade Office about your having founded a company, it saves time and speeds up the process to do this on one's own. With this registration you shall receive a tax number, which is indispensable for fulfilling all tax obligations.
- When your business activities begin, your company will automatically become a member of the Chamber of Industry and Commerce (Industrie- und Handelskammer). Freelancers, craftsmen and farmers are excluded.
- Newly founded commercial enterprises have the duty to register with the Commercial Register. Corporations and partnerships require that a notary performs this registration.
- Depending on the legal form selected, a capital contribution is to be made. For a limited liability company [Gesellschaft mit beschränkter Haftung (GmbH)], EUR 25,000 has to be paid in as share capital. An alternative is to found an entrepreneurial company with limited liability [Unternehmergeellschaft (UG)], a variation of the limited liability company, for which only one euro is initially required to be paid in as share capital.
- Corporations and partnerships must be led by a managing director. Often such persons are also shareholders in the company or partners in the partnership, i.e. they are directly involved in the entity.
- Each German company has the legal duty to prepare financial statements, which are not just a basis for managing an entity, but also serve as a business plan for the company and give transparency to the entity's owners.
- A company should be managed by financial neutrality as defined in Germany's Basic Law. That is why a decision to found a company from a tax perspective should not be influenced by the legal form selected. The neutrality striven for can, however, not be achieved. That is why when deciding on a legal form taxation must be considered. In Germany the following taxes, among others, may be levied for running a business: income tax, corporate income tax, trade tax and value added tax.
- Investment subsidies, incentives and financing from other companies should make it easier to found start-ups. Along with private investors (e. g. venture capital firms, private investors or private equity firms), public institutions also have funds for promoting particular locations or for binding investors. In the EU there are programmes at the federal and state levels for enabling companies to have access to loans, subsidies, investment funds or guarantees. In order to receive such incentives, certain conditions have to be met.
- Investors from non-EU countries acquiring a certain percentage of voting rights in a German company, irrespective of its business activities, may be subject to a review by the Ministry of Finance (without necessarily having to notify the Ministry). The applicable threshold depends on the activity of the German company. As an example, a threshold of 10% of the voting rights is to be applied for certain critical infrastructures, in developing software for critical infrastructures, in the area of cloud-computing services, in the media and telecommunication industries or in developing or producing certain dual-purpose products.

# Company law

Germany offers numerous legal forms for founding a company. Selecting a legal form depends on various factors, for example liability, taxation and accounting. After having made an initial selection, an entrepreneur is not tied to a particular legal form since German law offers an opportunity to change the legal form as an entity develops further.



## Sole Proprietorship (Einzelunternehmen)

A sole proprietorship is the simplest legal form in Germany. It is founded by one person (an entrepreneur) and is led under the name of the entrepreneur or under a commercial name. A formal agreement is not necessary, and in contrast to other legal forms, there is no requirement for putting up a minimum amount of capital. The owner is fully and personally liable for all debts arising from the business. In return, he/she is entitled to all profits and full control over managing the business.

The owner must comply with certain registrations. For example, the local Trade Office must be informed about the person conducting business activities. Should the owner want to operate a commercial company or partnership, it is required to apply for registration in the Commercial Register. After the registration has been completed, the owner assumes all rights and duties. A sole proprietorship is not a legal entity and cannot have any rights and duties in its own right.

If a commercial business has not already been obligated to keep accounts under the German Commercial Code, such an obligation may, nevertheless, exist for tax law reasons if either its revenue exceeds EUR 600,000 in any given calendar year or its profit exceeds EUR 60,000 during the entity's financial year.

## Partnerships

### Civil Law Partnership (Gesellschaft bürgerlichen Rechts – GbR)

A civil law partnership [Gesellschaft bürgerlichen Rechts (GbR)] is the simplest legal form for a partnership and can be created as soon as two or more persons operate a business together. A distinction is made between internal partnerships without legal capacity and external partnerships with legal capacity. One of the differences for an external partnership is whether it is registered in the Company Register or not.

The legal regulations assume that an external partnership with legal capacity is the basic type for a civil law partnership (GbR). If it is the will of the partners of a civil law partnership to participate in legal dealings, then it is deemed to be an external partnership in accordance with

§ 705 (2) first alternative of the German Civil Code [Bürgerliche Gesetzbuch (BGB)]. Such a partnership can then be the bearer of rights and obligations and invest in assets belonging to the partnership.

The partners can have its external partnership with legal capacity be registered in the Company Register, in which information about the partnership (name of the partnership, legal seat, address) and about the partners (last name, first name, birthdate, place of residence or legal entity, legal form, legal seat, if applicable registration and registration number) is registered. An entry in the Company Register can only be made by a notary and must have the consent of all of the partners of the partnership. A duty to register does not exist.

For especially important legal transactions, it is, however, required to have registered prior to the transaction. For example, a civil law partnership must be registered in order to acquire or sell land or property and to be able to be registered in the Land Register as the owner. When a civil law partnership is registered as a "registered civil law partnership" [eingetragene Gesellschaft bürgerlichen Rechts (eGbR)], it must use the addition of "registered" in the name of the partnership in legal transactions.

Another consequence of registering is the duty to publish in the Transparency Register. The partnership has the duty to regularly obtain information about its beneficial owners and report such information to the Transparency Register. A registration in the Company Register cannot simply be deleted.

### **General Partnership (Offene Handelsgesellschaft – OHG)**

A general partnership [Offene Handelsgesellschaft (OHG)] is a form of partnership, with which two or more natural persons or legal entities can operate a commercial entity together. The partners are unlimitedly and personally liable for the liabilities of the partnership.

Such a partnership must have a name and business designation (name under which the partnership is represented in business transactions) registered in the Commercial Register and beneficial owners of the general partnership must be registered in the Transparency Register. The term "OHG" must be in the name of the partnership. The registration of the partnership in the Commercial

Register and at the Trade Office are required as well as a reporting on when a partner becomes a member of or withdraws from a partnership.

The partnership agreement or articles of partnership are not subject to any formal requirements. It is, however, recommended to have a written agreement. Moreover, there is no minimum capital requirement at the founding of a partnership. A capital contribution can be made by the partners of a general partnership in the form of cash, tangible assets or services.

A general partnership always has the duty to keep accounts and to prepare annual financial statements.

### **Limited Partnership (Kommanditgesellschaft – KG)**

A limited partnership [Kommanditgesellschaft (KG)] is a form of partnership having one partner who is a personally liable partner (general partner) and at least one partner who has limited liability (limited or silent partner).

The general partner is unlimitedly and personally liable for the liabilities of the partnership while the limited or silent partner's liability is limited to his/her contribution. As a rule, the general partner is responsible for the administration work of the partnership while the limited or silent partner takes on the role of an investor.

In order to found a limited partnership, there must be a written partnership agreement or articles of partnership agreed upon by the partners and registered in the Commercial Register and at the Trade Office. The registration in the Commercial Register must be notarised. The name of the entity must have the acronym "KG" added to it.

A minimum capital contribution is not prescribed at the founding. The main advantage of having a limited partnership is to be able to increase the capital by having new limited or silent partners become members of the limited partnership.

Under the German Commercial Code, a limited partnership is an economic entity and therefore has the duty to keep accounts and to prepare annual financial statements.

A limited partnership is particularly suited for entities, in which one or more partners wish to bear the entrepreneurial risk while the other partners solely provide capital.

### Limited Commercial Partnership – GmbH & Co. KG

The limited commercial partnership (GmbH & Co. KG) is a special form of limited partnership, in which the personally liable partner is a limited liability company (GmbH). A limited commercial partnership combines the benefits of both a limited liability company and a limited partnership.

A limited commercial partnership offers the advantage of limiting the risk of liability for the personally liable partner because a limited liability company as a corporation is only liable with its business assets. At the same time natural persons as general partners can be members of the partnership and benefit from the tax advantages of a partnership.

A limited commercial partnership is founded just as any limited partnership by concluding a partnership agreement or articles of partnership between the general partner and the limited partner, in which the relationship between the members of the partnership is defined. In order to found such a limited commercial partnership, at least one general partner and one limited partner are required and the general partner must already be a limited liability company when the limited commercial partnership agreement is concluded.

When founding a limited commercial partnership, a notarised limited commercial partnership agreement or notarized articles of limited commercial partnership as well as a registration in the German Commercial Register are required. As a rule, the management lies in the hands of the general partner while the limited liability company is allowed to participate in making important decisions at the partners' annual general meeting.



## Corporations

### Limited Liability Company – GmbH

A limited liability company is the most preferred legal form for a company in Germany because it offers limited liability for its owners. One or more natural persons can found a limited liability company and must contribute at least EUR 25,000 in equity to the company in the form of a cash contribution, a contribution in kind or a mixed contribution. Should a portion of the capital be a contribution in kind, such contributions must be concluded before the company is registered. In all the cash contributions paid in and the contributions in kind given must total at least 50% of the share capital, i.e. EUR 12,500 before an application for registering the company is filed.

For founding a limited liability company, notarised articles of association and a registration of the company in the German Commercial Register by a notary are required. Up to this registration the company is deemed as being unlimitedly liable.

A limited liability company has the legal duty to have at least one managing director. The regulations for managing and representing the company are laid down in the articles of association. Along with the procedures for resolutions to be decided on by majority voting, the articles of association must contain fundamental information about the company such as its name, place and purpose. The most important aspect of a limited liability company is the shareholders' meeting, whereby the shareholders come together to advise on the company's situation.

There is no personal liability for the shareholders. Any profit can be distributed to the shareholders by means of dividends or retained in the company. There are regulations for dividend distributions, e.g. for protecting minority shareholders, and they are set down in the articles of association. Since the Law for the Modernisation of the Limited Liability Companies Act was issued in 2008, the founding of a limited liability company must be noted down in the minutes of the founding meeting. There is a standard official form for taking such minutes in order to simplify and speed up this procedure for founding a company.

### Entrepreneurial Company (Unternehmergesellschaft – UG)

It is also possible to found a special type of limited liability company called an entrepreneurial company [Unternehmergesellschaft (UG)], which was developed as an alternative to the normal limited liability company. The main difference in this legal form is the amount of share capital required at the founding. Only one euro must be booked into share capital before registering the company.



Owing to the low amount of capital needed, the entrepreneurial company is more advantageous for financially weak founders.

The problem this type of company has at the founding is a high risk of going bankrupt and its low credit rating. To mitigate this risk, it is required to set up reserves. Twenty-five percent of the profit must be paid into the capital reserve account until the minimum share capital of EUR 25,000 has been reached. When this a condition is fulfilled, the company can be transformed into a regular limited liability company.

The entrepreneurial company was introduced into the German legal system as an alternative to the English limited. It requires the same founding process and has the same requirements as a limited liability company. The duty to maintain accounts for an entrepreneurial company is the same as for a limited liability company. The company name must include the addition of "UG (haftungsbeschränkt)", meaning limited liability so that third-parties can clearly recognise the legal form of the entity.

### Public Limited Company (Aktiengesellschaft – AG)

The public limited company (plc) [Aktiengesellschaft (AG)] is the most well-known legal form for companies and is often selected by large companies. This type of company is a corporation, whose share capital is divided into shares of stock, which can be registered and traded. A German public limited company is not obligated to place its stock on the stock market. A public limited company must have at least one initial investor involved. The articles of incorporation of a public limited company must be notarized. Before registration, the company and its shareholders are fully liable for any liabilities entered into. After being registered, the liability is passed on solely to the company.

The management of a public limited company is in the hands of the management board, which is monitored by the supervisory board. The members of the supervisory board are voted on by the shareholders, and they monitor how the company is managed by the Management Board. The members of the management board are personally liable if the company is harmed by their gross negligence.

At the annual general meeting (AGM) the shareholders have the possibility of informing themselves about the situation of the company and of making resolutions to change the articles of incorporation, to discharge the management board and the supervisory board, to appoint new members to the management board and supervisory board, to approve the annual financial statements, to utilise profits, to appoint an independent auditor and to dissolve the company.



A public limited company requires very specific and strict accounting procedures. The annual report is to be prepared by the management board within the first three months of the subsequent financial year being reported as specified in the German Commercial Code [Handelsgesetzbuch (HGB)].

After the annual financial statements have been prepared, they are to be audited by an independent auditor, who issues an independent auditor's report containing an audit opinion. The audited financial statements and the notes to the financial statements are presented to the management board. The managing director must present the audited financial statements, the notes to the financial statements, the management report and a suggestion for utilising the profits to the management board and to the supervisory board. In accordance with § 172 of the Public Limited Companies Act [Aktiengesellschaftsgesetz (AktG)], the management board and the supervisory board usually adopt the annual financial statements and the notes to the financial statements.

The management board and the supervisory board can leave the matter of this adoption to the shareholders at the shareholders' annual general meeting or the supervisory board can also adopt the annual financial statements and the notes to the financial statements prepared by the management board. Pursuant to § 173 AktG the shareholders' annual general meeting is responsible for adopting the financial statements and the notes to the financial statements.

The last step is for the management board to enter the financial statements and the notes to the financial statements into the Commercial Register and to publish them in the Federal Gazette (Bundesanzeiger). Public limited companies listed on the stock market must also prepare annual financial statements and the notes to the annual financial statements in accordance with International Financial Reporting Standards (IFRS). The legal regulations are found in the Public Limited Companies Act [Aktiengesetz (AktG)].



## Other types of companies and legal forms

### European Company/Societas Europaea (SE)

The European company [Societas Europaea (SE)] is a special type of public limited company and is a preferred legal form for companies operating throughout Europe. The EU hopes that by founding an SE, continuity for the financial reporting and for the legal principles of its member states is achieved. The benefit of having an SE is that the subsidiaries of the holding company are subject to the same regulations.

However, the domestic regulations of each of the countries in the EU are to be observed and followed since the EU Directive for an SE only gives a legal framework.

A European public limited company has its own legal form. The minimum capital contribution required for a European public limited company is EUR 120,000 Euro. The share capital is to be divided up into shares of stock, for which each shareholder is only liable for the amount of his/her contribution. The SE, as a legal entity, is liable for all liabilities with its own assets. In order to operate in Germany, an SE must be registered in the German Commercial Register.

There are several alternative approaches for founding an SE, such as merging already existing cross-border subsidiaries located in various member states, founding a common subsidiary by concluding an agreement with at least two companies from different member states or changing the legal form of a domestic public limited company.

### Limited Joint Stock Partnership (Kommanditgesellschaft auf Aktien – KGaA)

The limited joint stock partnership [Kommanditgesellschaft auf Aktien (KGaA)] combines the characteristics of both a partnership and a corporation. As a trading company, it is defined as being a company in the German Commercial Code.

The limited joint stock partnership is financed by contributions made by the limited partners and the fully personally liable partners. A share capital of EUR 50,000 Euro is required.

There are two types of partners. The personally liable general partners are the only members of the partnership that manage and represent the partnership. The general partners have unlimited liability and play a special role in the partnership. For all fundamental decisions affecting the entity, their consent is required. The limited partners have a role similar to that of shareholders in a public limited company.

Just as shareholders in a public limited company, limited partners in a limited joint stock partnership have advantages and disadvantages. They have the right to be involved in making special decisions affecting the partnership. However, the supervisory board does not have the authority to make decisions on making changes in the management (general partners) so that in contrast to shareholders in a public limited company, it has little influence on which final decisions are made.

The limited joint stock partnership is especially the legal form of choice of family-owned entities since they resist being taken over. Even if 50 percent of the partnership is owned by limited partners, the general partners retain control of the operating business. The legal regulations governing a limited joint stock partnership are found in the Public Limited Companies Act and in the provisions of the limited joint stock partnership agreement or the articles of the limited joint stock partnership.



## Commercial Register

The Commercial Register in Germany is a public register, in which all companies are registered and the most important information is listed. It serves the purpose of transparency and legal certainty in economic life and is mandatory for companies if they are engaged in commercial business operations.

In the Commercial Register the name of the entity, its legal seat, the managing director and shareholders, the share capital as well as other changes in the entity are, among other things, entered into the entity's registration.

The registration in the Commercial Register is performed at the responsible local court depending on the legal form of the entity [e. g. limited liability company (GmbH), public limited company (AG), general partnership (OHG)]. Certain formal requirements must be complied with and fees are charged. Changes in the entity, such as a change in the management or an increase in the share capital, must be entered in the Commercial Register.

The Commercial Register is accessible in electronic form under [www.handelsregister.de](http://www.handelsregister.de).

## Changing the Legal Form

In Germany there are different possibilities for changing the legal form of an entity. Reasons for restructuring are manifold, for example diversifying the capital base, increasing the creditworthiness of the entity, spreading risk, succession issues, tax benefits and preparing for a merger.

A frequent option is reorganising a partnership into a corporation or the other way around. This can be done by means of reorganisation in accordance with the Reorganisation Act [Umwandlungsgesetz (UmwG)].

Another possibility of changing the legal form is in the framework of either a merger or a spin off. Hereby two or more entities can either be merged or split into a new entity. Special legal regulations must also be complied with.

In addition, there is a possibility of changing the legal form of an entity by a formal act. The existing entity is dissolved and a new entity with the new legal form is founded.





# Financial Reporting

The clear, continuous and systematic documentation of business transactions is at the heart of any accounting system. As stated in § 238 (1) of the German Commercial Code [Handelsgesetzbuch (HGB)], each merchant, i.e. in principle anyone running a commercial business, is obligated to maintain accounts in accordance with the principles of proper accounting as specified in the German Commercial Code.



## German Commercial Law

Each company required to maintain accounts must prepare annual financial statements comprising the balance sheet, the statement of profit and loss and, depending upon the legal form of the entity, notes to the annual financial statements and a management report as well.

Corporations and partnerships with share capital [such as a limited commercial partnership (GmbH & Co. KG)] also have the duty to prepare annual financial statements. These financial statements must be supplemented by the notes to the annual financial statements containing explanatory notes on the items of the balance sheet and the statement of profit and loss as well as other information such as the entity's contingent liabilities. The annual financial statements must be accompanied by a management report containing the management's assessment of its future business development.

Depending upon its size, an entity may be allowed to be exempted from the duty to prepare financial statements and to report on its business. There are differences between

- Micro-entities
- Small corporations
- Medium-sized corporations
- Large corporations

Being classified as either a micro-entity, a small, medium-sized or large corporation results from an entity's balance sheet total, revenues and its average number of employees each year as specified in § 267 and § 267a of the German Fiscal Code [Abgabenordnung (AO)].

Although there may not be a duty to maintain accounts pursuant to the German Commercial Code if the entity is not operating a commercial business or if it is a civil law partnership. Nevertheless, there may be a duty to maintain accounts owing to complying with tax requirements. One condition is to generate revenue of EUR 800,000 per year or to have a net profit of EUR 80,000 or more in any given financial year of the entity. The self-employed or freelancers, as sole proprietors, or a firm with other self-employed individuals do not have the duty to maintain accounts based on the double-entry bookkeeping system for maintaining accounts. They may report their annual income by maintaining cash-based accounts, by which annual income is offset by expenses.





### Principles of Proper Accounting

The principles of proper accounting in Germany particularly emphasize protecting creditors by requiring a prudent measurement of assets and liabilities. Fundamentally, all identifiable risks and unrealised losses are to be considered at the balance sheet date while revenues are only considered when realised (§ 252 (1) No. 4 HGB), with the exception of foreign currency translations with a remaining term of less than one year. Other significant accounting policies and measurement methods are the acquisition cost principle (§ 253 (1) HGB), the assumption of the entity continuing as a going concern (§ 252 (2) HGB) and retaining the measurement methods applied in the prior year financial statements (§ 252 (6) HGB).

Calculations must always be performed in euros; accounting documents must be retained for a period of eight years (§ 257 AO). A ten-year retention obligation applies to trading books, inventories and annual financial statements. For the sake of simplicity, it is advisable to have all books and records kept in Germany. The financial year may not exceed twelve months (§ 240 Abs. 2 AO) and, as a rule, corresponds to the calendar year.



### IFRS/IAS

The objectives of the International Financial Reporting Standards and of the International Accounting Standards (IFRS/IAS) are to improve the international comparability of financial statements by having them prepared under the same set of regulations.

Since 2005 it has been mandatory for capital market-oriented companies to prepare IFRS consolidated financial statements in the EU. In addition, EU member states are free to expand the use of IFRS to all separate and consolidated financial statements on either a mandatory or a voluntary basis. In Germany the corresponding EU Directive has been implemented to the effect that companies have to prepare their consolidated financial statements in accordance with IFRS as based on the EU Directive and must also make additional disclosures based on specific requirements of the German Commercial Code (e. g. the average number of employees per year, remuneration of management, the annual audit fees). This applies to all companies operating in Germany that have applied for an initial public offering on a German stock market. Additionally, each parent company not publicly trading its stock may voluntarily prepare its consolidated financial statements in accordance with IFRS. For these cases, it is also required to make the additional disclosures cited above in accordance with the German Commercial Code.

The separate financial statements of entities that are members of a corporate group may not only be prepared in accordance with IFRS. For the purposes of distributing dividends and of calculating taxes, an additional set of financial statements are to be prepared in accordance with the German Commercial Code.

# Corporate Governance

Corporate governance is the totality of all processes, customs and practices, guidelines, laws and institutions that may influence how an entity is led, administered, controlled and steered. Corporate governance also includes the relationships between the many interest groups involved and the objectives a company has set for itself and how it is managed to attain them.



## German Corporate Governance Code

### Overview

In Germany a government commission adopted the "German Corporate Governance Code", which was primarily intended for the public limited companies listed on the German stock markets. It is highly recommended that unlisted companies also observe the principles of the German Corporate Governance Code.

The German Corporate Governance Code ("Code") consists of several parts and presents legal requirements for managing and monitoring companies listed on the German stock markets (corporate governance), which are based on the Public Listed Companies Act. It also contains internationally and domestically recognised standards for good and responsible management in the form of recommendations and suggestions.

The objective of the Code as disclosed by the government commission is to make the German corporate governance regulations transparent for domestic and international investors and to strengthen trust in how German companies are managed. The Code addresses all of the significant criticism of German corporate governance, especially at the international level such as:

- Appropriate alignment with the interests of the shareholders
- Dual-board system of management board and supervisory board
- Lack of transparency of German corporate governance
- Insufficient independence of the members of German supervisory boards
- Limited independence of auditors

Each year the German Corporate Governance Code is examined and adjusted if necessary. It has the following structure:

- Management and supervision
- Membership of the Executive Board
- Membership of the Supervisory Board

- Working methods of the Supervisory Board
- Conflict of interest
- Transparency and external reporting
- Remuneration of the Executive Board and Supervisory Board

The Code emphasizes the responsibility of the management board for appropriately managing and monitoring risks in the company. The responsibility of the managing director and the management board is closely tied to the legal duties of the supervisory board to monitor the effectiveness of

- the internal control system,
- the risk management system,
- the internal audit system and
- the accounting processes and the financial statements (§ 107 (3) AktG).

The Code clarifies the duties of the management board and supervisory board to adhere to the principles of a social market economy so that the company can continue to exist and prosper and to sustainably create value.

### Dual-Board System

For German public limited companies, a dual management system is legally prescribed:

- The management board is to manage the company responsibly. Its members are to bear a common responsibility for managing the company. The chair of the management board is to coordinate the work of the management board.
- The supervisory board monitors and advises the members of the management board and is directly involved in decisions of fundamental importance to the company. The chair of the supervisory board coordinates the work of the supervisory board.

The members of the supervisory board are elected by the shareholders at the annual general meeting.



### Single-Board System

The European public listed company, *Societas Europaea* (SE), gives companies in Germany a possibility to decide on a system of management through one governing body (the administrative board), which is widely used internationally. The form of co-determination is, as a rule, determined by an agreement between management and the representatives on the employees' side. All employees in EU member states are included.

### In Practice

The dual system established in other continental European countries is coming closer and closer to the system with only one board owing to the intensive cooperation of the management board and the supervisory board within the dual system. Both systems are equally successful.

The accounting standards of German companies orient themselves on the "true and fair view" principle and report on the actual circumstances of a company's assets and liabilities, its financial position and its financial performance.



# Tax System

In general all legal and natural persons are subject to taxation. Any profits a permanent establishment located in Germany generates is subject to either income tax or corporate income tax depending on the legal form of the entity.



## Unlimited and Limited Tax Liability

A differentiation is made between a limited and an unlimited tax liability. The unlimited tax liability is for persons residing in Germany as their primary residence. In such cases all foreign and domestic income is subject to taxation in Germany. Double taxation treaties ensure that double taxation of foreign and German income is avoided. Foreign taxpayers are subject to a limited tax liability. This means that only income generated in Germany is taxed by Germany.

Corporations, associations, and funds are subject to corporate income tax and have an unlimited tax liability if their management or their legal seat is in Germany. Should such taxpayers neither have their management nor their legal seat in Germany, they are deemed as having a limited tax liability on the specific income generated in Germany.

## Taxation of Companies

The principles of separation and transparency are at the heart of taxing companies in Germany.

Corporations are taxed in accordance with the separation principle, which means that a company's profit and the income of the shareholders are taxed separately. While a company's profits are subject to corporate income tax, dividend distributions to shareholders or gains from a sale are taxed at the level of the shareholder.

Partnerships are not taxed in accordance with the transparency principle. Profit or loss is determined at the level of the partnership and then allocated to the members of the partnership or the co-entrepreneurs in proportion to their ownership interest in the partnership. This income is taxed at the level of the individual members of the partnership.

## Corporate Income Tax

Corporate income tax is levied on taxable corporate income at a uniform rate of 15% (flat-rate tax). Dividend distributions to shareholders or similar persons are not considered when determining taxable income for corporate income tax.

Ninety-five percent of the gains from a sale selling shares of stock to domestic or foreign corporations are exempt from corporate income tax and from trade tax. If a sponsoring undertaking holds at least 10% of the shares,



95% of the dividends received are also exempt from corporate income tax. If a corporation holds at least 15% of the shares in the entity distributing the dividends, 95% of such dividends are also exempt from trade tax.

All partnerships (including Civil Law Partnership) have the option of opting for taxation as a corporation. The option application is irrevocable and must be submitted no later than one month before the start of the financial year from which taxation under the KStG is to take place.

In addition companies are subject to trade tax on their taxable income.

### Trade Tax

Companies classified as commercial entities have the duty to pay trade tax. The amount of this tax depends on where the commercial operations are located and is, as a rule, between 7% and 18.35% of the profit. Sole proprietors and members of partnerships can deduct a certain amount from their income tax liability in order to offset this tax burden after the trade tax liability has been paid. It is, however, not possible to offset a trade tax liability from a corporate income tax liability.

### Value Added Tax

Another important tax is value added tax (VAT) levied at 19% or in certain cases at 7%.

The objective of the value added tax system is to tax the delivery of goods or the rendering of services, which have been provided by an entrepreneur to an "end consumer". Value added tax is also levied on sales between companies. VAT invoiced between entrepreneurs can be reclaimed by the seller/ recipient of services as input VAT. Companies can deduct input VAT from their VAT liability and only need to pay the remaining sum after deducting input VAT.

Value added tax is also charged on imports. Goods are imported from an EU country are subject to the normal VAT at the level of the importer located in Germany. Goods imported from a non-EU country are subject to import value added tax, which is similar to normal VAT and is levied at the same rates (19% und 7%). The main difference is that import VAT can be levied not only on companies but also on private persons importing goods. Entrepreneurs having the right to deduct input VAT can also deduct the import VAT they have paid as input VAT.

Generally services are also taxable in Germany if they are rendered by a entrepreneur located in Germany to a private person or by any (foreign or German) entrepreneur to another entrepreneur located in Germany. Services rendered by entrepreneurs located abroad to entrepreneurs located in Germany are fundamentally subject to taxation. Such transactions between EU member states, as a rule, fall under the "reverse-charge" principle, i.e. the tax is to be paid by the recipient of the service.

In order to set up a tax group for VAT purposes, the requirements for financial, economic and organisational integration have to be fulfilled. Should such a VAT tax group be approved, the parent company or the controlling company and its affiliated subsidiaries are deemed to be separate entities but the sales revenue of the group will only be attributed to the parent or controlling company, which is the sole taxpayer and is obligated to file a uniform monthly VAT reporting and to file an annual VAT return for the entire group. A benefit of such a VAT tax group is that intercompany sales revenue is not taxable.

**Since January 2025, electronic invoicing (e-invoicing) has been mandatory in business-to-business (B2B) transactions in Germany. However, due to the expected high implementation costs for companies, the legislator has provided transitional regulations for invoice issuers for the years 2025 to 2027.**

Foreign investors must be aware of the fact that they are to be treated the same as domestic investors for VAT purposes if they have a subsidiary located in Germany. The requirements for a subsidiary are not identical to those for a permanent establishment for income tax purposes. In general, a foreign investor can have a permanent establishment in Germany without owning a permanent facility while the contrary occurs rather seldomly. A foreign subsidiary in Germany has the same obligation in as a domestic entrepreneur to file VAT returns on a regular basis.

## Tax Groups

A tax group for corporate income and trade tax purposes results in joint taxation of legally independent companies. Setting up a tax group makes it possible to plan and optimize taxes more efficiently. Such a group comprises at least one parent or controlling company and a subsidiary. The parent company or controlling entity may be a natural person, a partnership or a corporation. It may also be a domestic subsidiary of a foreign company, which is registered in the German Commercial Register in the jurisdiction where it is located.

The controlled subsidiary must be a corporation with its legal seat and management in Germany.

It must have obligated itself by means of a formal profit and loss transfer agreement in order to transfer its entire income to the parent company or controlling entity. In setting up a tax group, the parent company or controlling entity must have the majority of voting rights in the subsidiary in order to achieve such financial integration. The revenue of the subsidiary is attributed to the parent company or controlling entity. By this means, profits and losses within the Group are counterbalanced.

## Income Tax

As already mentioned, partnerships are not taxable in accordance with the transparency principle. Instead the income of the partners or co-entrepreneurs are taxed.

The following income is subject to income tax:

- Income from agriculture and forestry
- Trade income
- Income from self-employment
- Income from employed work
- Investment income
- Rental and leasing income
- Other specific types of income

In Germany tax rates are determined on the basis of a progressive income tax rate system. The basis for an assessment is taxable income. In addition, church tax may be levied depending on church affiliation, and a solidarity surcharge may be levied depending on the amount of income a person has. The assessment period is the calendar year, which may deviate from the financial year of some companies.

## Investment Income

Shareholders residing in Germany must pay a 25% flat-rate tax on dividend distributions. In addition, solidarity surcharge and perhaps church tax may also be levied. This flat-rate tax is also levied on other investment income such as interest or capital gains from funds or exchange traded funds (ETF). Should the stock be held in the private assets of the owner, this flat-rate tax is withheld.

In practice this tax is levied directly at source. The distributing company pays this tax amount directly to the tax authorities. Also foreign dividend distributions are taxed in Germany. In order to avoid double taxation, such a German tax amount may be used to reduce the amount of capital gains tax levied by a foreign country. Upon application, a personal income tax rate may be levied on investment income on the basis of examining what is more favourable. The tax authorities examine whether the taxation of a taxpayer is more favourable if the personal income tax rate is applied.

Shareholders holding at least 25% of a stock or shareholders holding at least a 1% interest in the company where they are employed have the possibility of opting for the partial income procedure instead of having the flat-rate tax levied.

With the partial income procedure only 60% of the dividends distributed are taxed at the personal income tax rate. Only 60% of operating expenses related to this income may be deducted. The partial income procedure is always applied when natural persons or legal entities receive dividend distributions or gains from the sale of such shareholdings.





### Taxable losses carried forward or back

Taxpayers can claim losses when calculating their income tax. For losses carryforward from the prior year, up to EUR 1 million (EUR 2 million for jointly assessed spouses) may be considered. Moreover, further losses of up to EUR 1 million and 60% of future profits exceeding EUR 1 million (EUR 2 million for jointly assessed spouses) can fully be deducted by carrying a tax loss forward.

The tax requirements for offsetting losses can also be applied in assessing trade tax. A tax loss carryforward is permitted and complies with the regulations for offsetting losses in calculating income tax. A trade tax loss carryforward is, however, not permitted.

Corporations can claim losses when determining their income just as natural persons can. Corporate income tax law limits the amount of the loss carryforward to be claimed when shares, membership rights or voting rights are indirectly or directly transferred. If more than 25% to 50% of the shares are acquired, the loss carryforward of the entity is limited by a proportionate decrease. If more than 50% of the shares in the corporation are acquired, the loss cannot be carried forward. The loss carryforward may be retained if the business operations of the corporation are continued. There are no exceptions – not even if the transfer of shares occurs within a group or an acquired corporation has sufficient hidden reserves at its disposal.

### Tax Returns

A tax return serves the purpose of calculating the assessment base of the taxable income and the tax amount to be paid to the tax authorities. In most cases a tax return must be prepared annually and filed with the tax authorities.

A tax return comprises several parts and the fields to be filled in depend on the type of income the entity or person has. To ensure that the information given is accurate, it is advisable to use the professional services of a tax advisor.

The deadline for filing a tax return is the 31st of July of the subsequent year being reported. If a tax return is prepared by a tax advisor, this deadline may be extended by seven months to the last day of February of the second subsequent year being reported.

**The filing of wage tax returns and of value added tax returns can be done by electronically transmitting them to the tax authorities by using the ELSTER interface ([www.elster.de](http://www.elster.de)).**

**The German Federal Central Tax Office provides international administrative assistance at: [www.bzst.bund.de](http://www.bzst.bund.de).**

### Transfer Pricing

Transfer prices are amounts from internal transactions between different companies or permanent establishments within the same corporate group (related parties or affiliated companies), which can be offset. These include amounts stemming from contracts, from restructuring a group's business strategy and from cost allocation agreements.

For cross-border relationships, German tax law follows the arm's length principle. This means that internal transactions are to be treated as if they were performed with a third party. In order to mitigate the risk of double taxation, adjustments should be made if the profit shifting between related parties is disproportionate to what is stated in the agreements. Not adhering to principles of transfer pricing results in restating profit, which in turn can result in the tax authorities levying higher taxes. The tax authorities generally adjust transfer prices on the basis of the least favourable point in the arm's length range. Penalty fines may be imposed.



### Double Taxation Treaties

Double taxation treaties are used by countries to prevent a taxpayer being taxed on their income for the same reporting period by the tax authorities in different countries. Such treaties are international, and German double taxation treaties generally follow the OECD example treaty.

Each double taxation treaty (DTT) contains procedures for taxing income and assets. Tax obstacles should be eliminated or at least correspondingly reduced. The country where the income was generated (the income source) can either subject this income to limited taxation or it can be reported to the country of residence. On the other hand, the country of residence can exempt income taxed in the source country or the foreign tax on this income can be credited against the tax burden in the country of residence.

**A list of double taxation treaties that Germany has with other countries can be found on the website of the Federal Ministry of Finance:**  
[www.bundesfinanzministerium.de](http://www.bundesfinanzministerium.de)

From 2025, Germany will apply the Multilateral Instrument (MLI). This is a binding, multilateral tax agreement between as many OECD member states as possible. The new regulations are intended to better coordinate tax administrations and lead to fairer taxation.

### Rules Limiting Interest Deduction

The interest deduction ceiling refers to the regulations limiting the amount of interest expenses that can be deducted as operating expenses. These rules apply to corporations, partnerships and private persons. The objective of the legislators was to restrict the ability of companies having international capital inflows into Germany to fully deduct interest expenses for tax purposes.

The introduction of the interest deduction ceiling had the result that a company's interest expenses are subject to a separate review for their tax deductibility. No differentiation was made for whether the interest expenses were incurred for a shareholder loan, for normal bank loans or for other types of financing made by domestic and foreign lenders. Loans given in connection with long-term public infrastructure projects are not recognised when calculating net interest expense.

In general, a company's interest expenses are tax deductible as operating expenses in the amount of the company's interest income in any given financial year without restriction. If interest expenses are higher than interest income, the interest balance may only be deducted as an operating expense for tax purposes up to 30% of the profit increased by the interest expenses and amortisation and reduced by the interest income. For the interest deduction ceiling, the "tax EBITDA" (earnings before interest, taxes, depreciation and amortization) is assessed for calculating the tax deductibility of the interest expenses.

There are three exceptions to the basic rule of the interest deduction ceiling for interest expenses. Some of these exceptions are characterised as being reverse exceptions. For instance, the rules of the interest deduction ceiling are not applicable if the interest balance of a company is less than EUR 3 million in any given financial year. If the interest balance is more than EUR 3 million, then all of the interest expenses exceeding the interest income are subject to the rules of the interest deduction ceiling. The interest deduction ceiling is also not applicable if a company is not a full or partial member of a corporate group. The answer to the question of whether a company is a member of a corporate group lies in the fact of the business's relationship to the group before the prior balance sheet date. The interest deduction ceiling also does not apply to member entities of a corporate group if the equity ratio comparison is successful. The equity clause means that the interest deduction ceiling does not apply if the equity ratio of a company is at least equal to that of the corporate group to which it is a member.



### Anti-IP-Box Regulation

It is limited how much of certain license fees and of other rights of use fees can be deducted as operating expenses in Germany. This restriction applies to intercompany expenses that are either not taxed by the foreign recipient or are only taxed at low rates owing to a harmful preferential tax regulation.

Foreign boxes having considerable business activity and thus complying with the "nexus approach" as agreed upon by the OECD and the G20 do not fall under this restrictive operating expense regulation.

### Real Estate Tax

Property owners have the duty to pay real estate tax. If a property is being rented out, the real estate tax is passed on to the tenant as an ancillary cost and the tenant must bear it economically.

Real estate tax is based on the estimated value of the property. The value of a property is determined by assessing the value of the property and then applying the applicable assessment rate, which is set by the municipality, in which the property is located.



### Inheritance and Gift Tax

Inheritances and gifts are fundamentally taxed in the same way. The basis for assessing the value of an inheritance or a gift is the fair value of the assets as determined in accordance with the German Valuation Act less any liabilities assumed by the heir or the recipient of a gift.

There are numerous allowances or exempted amounts for assets used daily and gifts as well as for business assets such as an ownership interest in a partnership or a shareholding in a corporation. Business assets up to EUR 26 million are fully tax exempt if numerous strict regulations have been fulfilled either before or after the assets are transferred.

As soon as the tax assessment basis has been determined, tax exemptions or allowances are deducted. The amount of such tax exemptions depends on the familial relationship the heir had with the deceased.

For spouses, there is a tax allowance of EUR 500,000, for children EUR 400,000, for grandchildren EUR 200,000 and for the parents EUR 100,000 in case of an inheritance. For all other groups there is an allowance of EUR 20,000.

The tax rate is also determined by the familial relationship and the amount of the estate. Income tax varies depending on which tax class the person falls under. Tax class I has a tax rate between 7% and 30%, tax class II between 15% and 43% and tax class III between 30% and 50%.

# Labour Law

The employment relationship is generally governed by the employment contract between the employer and the employee. In addition, the labour agreements that apply to the company involved as well as any general collective bargaining agreements are to be observed.



## Work Permit in Germany

As a rule, persons, who would like to work in Germany, must apply for a visa unless they are citizens of EU member states, of Iceland, Liechtenstein, Norway or Switzerland.

Citizens of Australia, Israel, Japan, Canada, South Korea, New Zealand and the United States may be able to receive the required documents even after having entered Germany. Citizens of all other countries must have their visas before entering Germany.

Permanent employment can only be taken up after a valid visa has been issued.

The Federal Minister for Labour and Social Affairs has made an ongoing catalogue of questions and answers concerning information about employing foreigners in Germany, which is available on the following website: [www.bmas.de](http://www.bmas.de).

## Tax and Social Insurance Obligations

In Germany taxes on income and, if applicable, also social insurance contributions must be paid.

Employees receive their net income from their employers by it being transferred to their bank accounts. The employer must pay the contributions for pensions, health insurance, unemployment compensation and nursing care insurance by deducting it from the wages or salaries to be paid and transferring these payments to the appropriate insurances or government offices. Moreover, wage tax (prepayments on income tax) and if applicable the solidarity surcharge and church tax must be transferred by the employer to the tax authorities.

For temporary secondments or assignments to Germany, special regulations apply: first it must be established if the employee is to continue to be insured in the country where he/she last worked or if the person is required to be socially insured in Germany.

In the case of marginal part-time jobs known as mini jobs, there are several special particularities to consider. Mini jobs are employment relationships, for which a low monthly wage that may not exceed a certain threshold. In Germany this threshold is currently EUR 556 Euro a month (Status 2025). Mini jobs are especially attractive since they are exempt from taxation and social insurances. However, Mini-jobbers have fewer rights and can make fewer claims than those with regular employment, such as vacation claims or employment protection.

Freelancers or the self-employed are responsible for paying their taxes themselves. The amount of tax to be paid depends on the profit generated by self-employment. In addition, freelancers and the self-employed must also pay value added tax if they render services subject to value added tax.

In addition, freelancers and the self-employed are responsible for their own social security contributions such as, among others, the health and nursing care insurances, pension insurance and unemployment compensation. Freelancers and the self-employed can take out either a voluntary statutory health insurance or a private health insurance. Providing for a pension should also not be neglected as a self-employed person since one is not automatically entitled to a statutory pension in old age.

### Employment Contract Provisions

The contract must comply with certain labour law regulations. These regulations are minimum standards that cannot be deviated from to the detriment of the employee by means of an individual contract.

### Working Hours

In Germany working hours for a workday generally do not exceed eight hours for a 40-hour, 5-day work week (or a 48-hour, 6-day work week). As a rule, Sundays are work free days. Exceptions are made for certain conditions to extend working hours up to 60 hours per week or 10 hours per day. For daily working hours between six or nine hours, a break of 30 minutes is permitted. For daily working hours of more than nine hours, a break of 45 minutes is permitted. In addition, an uninterrupted rest time of at least eleven hours is guaranteed after ending the daily working hours.

### Vacation

In Germany each employee can claim at least 24 paid vacation days each year for a 6-day work week, which corresponds to 20 vacation days for a 5-day work week. In practice employers do, however, often permit 26 to 30 paid vacation days per year for a 5-day work week.

Public holidays in Germany vary from state to state. Public holidays nationwide are:

- New Year's Day (1 January)
- Good Friday (2 days before Easter Sunday)
- Easter Monday (1 day after Easter Sunday)
- Labour Day (1 May)
- Ascension Day (39 days after Easter Sunday)
- Pentecost Monday (50 days after Easter Monday)
- German Reunification (3 October)
- Christmas Day (25 December)
- Boxing Day (26 December)

### Minimum Wage

The minimum wage is the legally set minimum wage that employers must pay their employees. It should ensure that employees receive adequate pay for their work and are protected from being exploited. In Germany the legal minimum wage has been set at a gross wage of EUR 12.82. The minimum wage may vary depending on the industry and on collective bargaining agreements.



### In the Case of Illness

In the case of illness, employees have the duty to inform their employers immediately. As a rule, this should occur on the first day of the illness. In addition, the employee must present a medical certificate issued by a doctor if the illness lasts longer. This is usually after three days; shorter deadlines may be agreed upon.

In the case of illness, employees receive a continuation of their wages or salaries over a period of six weeks. Employers with fewer than 30 employees can have a percentage portion of the expenses incurred reimbursed.

Should the illness continue further, the employees can claim their sickness benefits from their statutory or private insurance fund. Employers do not have the duty to continue paying such salaries if illnesses last longer than 6 weeks.



### Terminating an Employment Relationship

An employment contract can properly be terminated by complying with the statutory notice periods. In this case the notice period is four weeks after the 15th day of a calendar month or at the end of a calendar month. If the employment relationship lasted two years, the notice period is one month at the end of the month. If the employment relationship lasted five years, the notice period is extended to two months. Depending on the length of employment, the notice period may extend up to seven months after a 20-year period of employment. Should a probationary period of six months at maximum have been agreed upon, the statutory notice period is two weeks.

The parties may mutually agree on a different notice period, but this may not be shorter than the statutory period.

Should a business employ more than ten employees, the Employment Protection Act [Kündigungsschutzgesetz (KSchG)] is, as a rule, valid. Reasons for terminations under this law may be:

- Giving notice for personal reasons
- Dismissal for behavioural reasons (a written warning must have been issued)
- Redundancies for operational reasons

In these cases, an employee, who had been employed for longer than six months may demand a judicial review of the termination.





### Maternity Leave

The statutory maternity protection begins at 6 weeks before the birth and ends eight weeks afterwards. During this time the employee may continue to work or she may withdraw her consent to work at any time during this period. During maternity leave employees may claim remuneration. This corresponds to the average earnings of the previous three months before the pregnancy. A portion of this remuneration is paid by the employer, the remaining portion is paid by the statutory health insurance fund.

Should the parents of a newborn remain at home or reduce their working hours, one or both can apply for parental benefits for up to 14 months. Instead of receiving wages or a salary, they, as a rule, receive compensation amounting to 65% of their lost income, which is paid by social security funds.

In addition, parents may claim parental leave up to the end of the child's third year but are on an unpaid leave of absence from their workplace. In companies regularly having more than 15 employees fathers or mothers can alternatively reduce their working hours or request to have a different distribution of their working hours.

### Works Council and Co-determination

When a company has at least five employees, a works council may be elected. The works council represents the interests of the employees. It has information and consultation rights, and under certain conditions, it may have co-determination rights in specific organisational and social matters of the company such as regulations on how the weekly working hours are distributed, on preventing accidents at work and on occupational illnesses. The works council also has a consultation right for each termination of employment. Should this right be violated, the termination is then invalid.

The size of the works councils is based on the number of employees. The number of members increases continually with the increase of the number of employees. The works council for a company of five to 20 employees entitled to vote may be just one person. For companies with 21 to 50 employees, the works council has three members. For a company with 701 to 1000 employees, the works council has 13 members.



### Trade Unions

Trade unions represent the interests of employees. On the agenda of trade unions are matters dealing with demands for higher wages and salaries, for better working conditions, for shorter working hours, and for more co-determination in the company. The interests of the members of the trade unions are the highest priority in negotiations with employer associations. The trade unions can exercise pressure by mobilising their members to take peaceful actions such as strikes. In Germany there are, however, considerably fewer strikes than in other European countries. The trade unions are financed by the contributions their members pay and are protected as a social coalition under Article 9 paragraph 3 of the German constitution known as the Basic Law [Grundgesetz (GG)].

# Statutory Social Insurance

In contrast to most other countries, Germany has a social insurance system for each citizen, which comprises health insurance, pension insurance, unemployment compensation, nursing care insurance and accident insurance.



## Overview

All employees must be socially insured and their place of employment must pay the required portion. With the exception of accident insurance, the contributions are divided between the employer and the employee. The accident insurance is solely born by the employer.

## Social insurance institution

The state itself must provide assistance in the form of subsidies if the respective social insurance provider is underfunded. An insured person is assigned to each social insurance provider. Solely for the health insurance may the insured person choose between a statutory or a private insurance.

## Health insurance

There are two types of health insurance: the statutory health insurance and private health insurances. For the majority of the population the statutory health insurance is mandatory and is based on the principle of solidarity. Employees with a gross income below a certain income threshold are compulsorily insured with the statutory health insurance. It is possible to switch to a private health insurance if the employee's gross income exceeds a certain threshold.

The Health Insurance Act requires that for a statutorily insured person, a uniform contribution of 14.6% of the gross wage or salary (2025) is to be paid. The contributions to private health insurances are individually determined and geared to age, to the state of health and to the desired scope of services.

## Pension Insurance

In Germany the statutory pension insurance is a central component of the social security system and is administered by the German Pension Insurance [Deutschen Rentenversicherung (DRV)]. Along with the statutory pension, company and private pension schemes are playing an ever-greater role. All persons in a professional dependent employment relationship or in a vocational training are subject to compulsory insurance under the statutory pension insurance scheme.



Employees pay contributions into the statutory pension insurance during their working life, entitling them to a pension when they retire. The rate of the contributions is at 18.6% (2025).

The amount of pension that an insured person later receives depends on various factors such as the length of time contributions were paid in, the amount of the contributions paid and other individual circumstances such as raising children and other care activities. The standard retirement age is 67 years of age.

### Unemployment Compensation

The statutory unemployment compensation insurance serves to support unemployed persons while they look for work. The rate of the contributions of a statutory unemployment compensation insurance is 2.6% of the gross wage or salary (2025).

### Nursing Care Insurance

The nursing care insurance introduced in 1995 plays an important role. The nursing care required for people with physical, mental or psychological illnesses or disabilities is financed with the nursing care insurance. Depending on the level of care, the nursing care insurance provides both cash benefits and benefits in kind. The current contribution rate (2025) for the nursing care insurance is 3.6%.

### Accident Insurance

Accidents occurring at work or at school as well as the on the way to and from work or school are in the scope of the statutory accident insurance. In addition, there is also insurance protection for occupational illnesses.

No contributions are required for the accident insurance for insured employees; the contributions must completely be paid by the employer. The amount of the contributions is based on the subsequent fulfilment of requirements. The company must settle these expenses by the end of each calendar year. The financial need resulting from the compensation of insured persons and the risk classes of various industries serve as the basis for the calculation.



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