Taxation of Profits in Germany

Prof. Dr. K. Schwantag ·
Dr. P. Kraushaar GmbH

Wirtschaftsprüfungsgesellschaft

Prof. Dr. K. Schwantag ·
Dr. P. Kraushaar

Steuerberatungs GbR
Tax Consulting, Accounting, Auditing Services

Zeilweg 42
60439 Frankfurt am Main
Germany
T +49 69 971 231-0
F +49 69 971 231-70
www.sk-berater.com

Introduction

Generally, all German resident companies and entrepreneurs with commercial activities in Germany are liable for taxation. There is only limited tax liability for non-resident companies. Depending on their organizational form, they may be liable to pay taxes on business activities conducted in Germany solely.

Businesses operating in Germany may be subject to various taxes, including corporate income tax or personal income tax, trade tax and VAT. Tax reliefs and special rules should be considered when establishing a business, planning transactions, making decisions within a group or conducting cross-border activities. Relevant matters may include the choice of location and legal form, dividend distributions and applicable reporting and documentation requirements.

The *S·K· Profit Taxation Guide for Germany* provides a general overview of German business taxation and selected special rules, including those relevant to groups operating across borders.

For further information or advice, please contact us using the contact details on pages 16 and 17 of this booklet or visit our website at www.sk-berater.com

We look forward to assisting you with your business activities in Germany.

Frankfurt am Main, August 2026

Lothar Boelsen	Jana Seifert	Anne Rinkenberger
-Managing Partner-	*-Managing Partner-*	*-Managing Partner-*

Content

Business Taxes **4**
I. Overview 4
II. Corporate income tax 4
III. Trade Tax 5
IV. Special Rules for Partnerships 5
V. Value Added Tax (VAT) 6
Calculation of Taxable Income **6**
I. Simplified Scheme 7
II. Deductibility and Tax Relief 8
Special Regulations **9**
I. Intercorporate Privilege 9
II. Interest Deduction Limitation (Interest barrier rule) 9
Definition 9
Exemptions 10
Interest Carry Forward 10
EBITDA Carry Forward 11
III. Loss offsetting 12
In General 12
Loss utilization for Corporations 12
IV. Income Tax Fiscal Unity 13
What is a Fiscal Unity? 13
Main Advantages and Risks 13
Fiscal Unity for VAT Purposes 13
Other Taxes Applicable to Businesses and Entrepreneurs **14**
Other Tax Matters for International Businesses **14**
I. Double Tax Treaties and Tax Relief 14
II. Anti-avoidance Rules 15
III. Related-party Transfer Pricing 15
About S·K· **16**

Business Taxes

I. Overview

Businesses operating in Germany may be subject to different taxes depending on their legal form, activities and individual circumstances. Corporate profits are generally subject to corporate income tax and trade tax. In addition, a solidarity surcharge is levied on the corporate income tax.

Overall Tax Liability for Corporate Enterprises in Germany

The overall tax liability may be as low as 25% in certain regions where trade tax is levied at a lower rate, but in strong economic regions the rate for business taxes usually varies from 29% to 34%.

Type	Tax Rates	Total
Corporate profit before taxes in EUR		100,000.00
Trade tax (3.5 % x Multiplier) in EUR (German Average Municipal Multiplier 438%*)	15.33%	15,330.00
Corporate income tax (15 %) in EUR**	15%	15,000.00
Solidarity Surcharge (5.5% on corporate income tax)	5.5%	825.00
Net Income in EUR		68,845.00
Overall tax burden		*31.16 %*

* DIHK 2025, considering municipalities with at least 20,000 inhabitants
**The corporate income tax rate will be reduced by one percentage point annually from 2028 reaching 10% in 2032

Handling the extensive Value Added Tax rules (VAT – Umsatzsteuer) applicable to transactions throughout the production and distribution chain is also a major issue for most businesses. Other taxes applicable to businesses operating in Germany include real property tax, real estate transfer tax, customs and excise duties.

II. Corporate income tax

Corporate income tax (Körperschaftsteuer) is imposed on corporations, such as an AG, GmbH or European Company (SE), as well as certain other legal entities, associations and pools of assets, such as foundations. It is imposed at the level of the entity and generally applies to both retained and distributed taxable profits.

Resident corporations are subject to corporate income tax on their worldwide income. In practice. However, double tax treaties may exempt certain foreign income, particularly income attributable to a foreign permanent establishment, or provide a credit for foreign tax. Non-resident companies are subject to German corporate income tax only on German-source income.

A foreign company may conduct business in Germany through a branch or permanent establishment (PE). Profits attributable to a German PE are generally subject to limited tax liability in Germany. Under an applicable double tax treaty, the company’s country of residence generally provides relief from double taxation by exempting the German PE income or by crediting the German tax against its domestic tax.

Dividends and capital gains received by a corporation from shares in another corporation may be largely exempt from corporate income tax, subject to the applicable requirements. As a general rule, 5% of otherwise tax-exempt income is deemed to constitute non-deductible business expenses. Different participation thresholds and additional requirements may apply, particularly for dividends and trade tax purposes.

Corporate income tax is levied at the rate of 15% on the profit earned during the calendar year. Solidarity surcharge is added on the corporate income tax (5.5%), resulting in a combined tax rate of 15.825%.

What constitutes taxable income with regard to corporate income tax and how it is to be determined, is regulated in the Income Tax Act (*Einkommensteuergesetz*) with specific provisions in the Corporate income tax Act (*Körperschaftsteuergesetz*).

III. Trade Tax

Trade tax is based on the taxable income generated by a commercial business. As a non-personal tax, it is charged on the earnings generated by a business regardless of the personal circumstances of any of the owners.

Trade tax is levied by local municipalities. The applicable rate currently amounts to at least 7% and commonly ranges from approximately 14% to 17%. The statutory minimum rate will increase to 9.8% from 2027.

The trade tax base amount is calculated by applying a uniform rate of 3.5% to the business's taxable trade income. This amount is then multiplied by the municipal trade tax multiplier, which is currently at least 200% and will increase to at least 280% from 2027. As one of the decisive location factors, this multiplier differs from municipality to municipality and usually ranges between 300% to 450% in active and successful business and industrial areas.

Commercial businesses operating through a permanent establishment in Germany are generally subject to trade tax. The taxpayer is the business entity under whose name the business is carried out. This may be a sole trader, a corporation or a partnership.

Sole traders and partnerships generally qualify for an annual allowance of EUR 24,500 against their taxable trade income. Sole traders and partners can generally offset trade tax from their personal income. However some trade tax may remain payable if the municipal multiplier exceeds 400%. Corporations do not qualify for the tax-free allowance.

If a business maintains permanent establishments in several municipalities, the trade tax base amount is generally apportioned among those municipalities using a payroll-based allocation formula.

Agricultural and forestry businesses as well as freelance work are not subject to trade tax.

IV. Special Rules for Partnerships

The taxable income of a partnership is determined in a two-stage process. The partnership's income is first determined at the level of the partnership and is then allocated to the partners in accordance with the applicable profit-sharing arrangement, taking into account certain partner-specific items.
For income tax and corporate income tax purposes, partnerships such as an OHG or KG are generally treated as tax-transparent. Their taxable profits are allocated to and taxed at the level of the partners, irrespective of whether the profits are retained or distributed. However, the partnership itself may be liable for other taxes, particularly trade tax and VAT.

Where the partner is an individual, the allocated taxable income is subject to personal income tax (Einkommensteuer). The tax rate starts at 14% above the basic personal allowance of EUR 12,348 for a single taxpayer and progressively increases to a top rate of 45%[1] for income exceeding EUR 277,826.

Solidarity surcharge of 5.5% may apply to the income tax payable. Sole traders and individual partners may generally offset trade tax against their personal income tax.

V. Value Added Tax (VAT)

Value Added Tax (VAT – Umsatzsteuer) is a general tax on consumption that is collected at each stage of the production and distribution chain. Businesses generally charge VAT on their taxable supplies and remit it to the tax authorities, while the economic burden is generally borne by the final consumer.

The standard VAT rate in Germany of 19% is below the European average. A reduced rate of 7% applies to certain goods and services, including many food products, books and local public transport. Certain transactions are exempt from VAT, including the rental of residential property and many insurance and medical services, as well as transactions subject to German Real Estate Transfer Tax.

Businesses may generally deduct input VAT incurred on purchases used for transactions that entitle them to recover input VAT. VAT is therefore generally neutral within a supply chain of businesses entitled to full input VAT recovery.

Businesses are required to issue invoices for many supplies, particularly supplies to other businesses. Where VAT is charged, the invoice must generally show the applicable VAT amount separately. Special invoicing rules apply, among other cases, to small businesses and reverse-charge transactions.

Since 1 January 2025, businesses established in Germany must generally be able to receive and process electronic invoices for domestic business-to-business transactions. An electronic invoice must be issued in a structured electronic format that allows automated processing. A simple PDF does not qualify. Where an electronic invoice is required, an invoice that does not meet the applicable formal and technical requirements generally does not support an input VAT deduction unless it is corrected or the relevant requirements are otherwise demonstrated. Electronic invoices must be retained electronically in their original structured format in accordance with the applicable record-keeping requirements. Businesses should therefore ensure that their accounting systems can receive, process, verify and properly retain electronic invoices. Transitional rules for issuing electronic invoices apply until the end of 2026 and, for certain businesses, until the end of 2027. Subject to certain exceptions, electronic invoicing will generally be mandatory for domestic business-to-business transactions from 2028.

Businesses whose turnover in the preceding calendar year exceeded EUR 25,000 cannot apply the small-business VAT exemption in the current year. If the EUR 100,000 threshold is exceeded during the current calendar year, the exemption generally ceases to apply from the transaction that causes the threshold to be exceeded. Businesses applying the exemption generally cannot deduct input VAT.

Where a non-resident business provides certain taxable supplies or services in Germany to a business customer, the recipient may be required to account for the VAT under the reverse-charge mechanism.

Calculation of Taxable Income

In principle, the taxable income of any business is determined on the basis of the results of its accounting results for the relevant tax year, subject to the applicable tax adjustments.

[1] The rates and income thresholds stated above reflect the law applicable in 2026. The German government has announced plans to revise the income tax brackets for subsequent years, including a higher tax rate for very high taxable income. At the time of publication, the legislative process had not yet been completed.

For corporate income tax purposes, taxable income is generally calculated on the basis of the tax balance sheet and income statement, which are usually derived from the financial statements prepared under applicable German accounting principles. The trade tax base is generally derived from the taxable income determined for corporate income tax or personal income tax purposes, subject to specific trade tax add-backs and deductions.

I. Simplified Scheme

Calculation of taxable income for corporate income tax purposes

	Annual profit according to German GAAP
+/-	Adjustments to tax regulations (certain write-downs, provisions etc.)
=	**Annual profit according to tax law (profit according to the tax balance sheet)**
-	Tax-free income (investment subsidy, certain foreign income, dividend income, capital gains, indemnification etc.)
+	Hidden profit distributions
-	Hidden contributions
+	Non-deductible business expenses (such as 30% of business entertainment, presents, interest expense disallowed under the interest barrier rule etc.)
+	Certain contributions/grants
=	**Taxable profit**
-	Deductible contributions
=	**Overall income**
-	Loss carryforward
=	**Taxable income (corporate income tax)**

Calculation of trade tax

	Taxable income for corporate or personal income tax purposes)
+	Add-backs
-	Deductions
=	Trade income
-	Trade loss carryforward
=	Residual trade income *(rounded down to full hundreds)*
-	Allowance of EUR 24,500 for sole traders and partnerships
=	**Taxable trade income**
*	Uniform trade tax rate *(3.5%)*
=	**Trade tax assessment base**
*	Municipal trade tax multiplier
=	**Trade tax**

II. Deductibility and Tax Relief

When calculating the taxable income, many factors are taken into account, allowing deductions and tax reliefs. Business expenses are generally deductible if they are incurred in connection with the business, unless their deduction is restricted or prohibited by specific tax rules. Special restrictions may apply to expenses connected with tax-exempt income. Potentially deductible expenses include ordinary operating costs, repair and maintenance expenses, employee remuneration and arm's-length remuneration or interest paid to shareholders, subject to the applicable limitations. Expenses are generally recognized in accordance with the applicable accounting and tax rules for the relevant financial year.

Depreciation or amortization is generally available for depreciable tangible and acquired intangible fixed assets with a useful life of more than one year. These may include plant and office equipment, motor vehicles, acquired patents, trademarks and goodwill. Assets are generally depreciated over their useful life. Special rules permit an immediate write-off of certain low-value movable assets or, alternatively, the pooling of qualifying assets and their depreciation over five years.

Losses are generally offset against gains for computing the taxable income. Losses are generally offset against positive income of the same tax year. For corporate income tax purposes, remaining losses of up to EUR 1 million are generally carried back first to the immediately preceding tax year and, to the extent they cannot be used there, to the second preceding tax year, unless the corporation elects to waive the carryback. Any remaining losses may be carried forward indefinitely. Trade tax losses cannot be carried back.

Under certain conditions, taxable gains from the sale of business land and buildings may be transferred to qualifying replacement assets or placed in a tax-deferred reinvestment reserve (so-called roll-over relief). Qualifying replacement assets must generally be acquired or produced within four years, or within six years in the case of certain newly constructed buildings. Special rules apply to corporate shareholdings sold by individuals and qualifying partnerships.

If no qualifying reinvestment is made, the reserve is reversed and becomes taxable. In addition, a taxable profit add-back of 6% applies for each full financial year for which the reserve existed.

Certain long-term liabilities and provisions must be discounted for tax purposes. The applicable rules and discount rates depend on the type and expected duration of the obligation. Companies may generate provisions for surety obligations, warranties, damage claims, litigation expenses or future pensions to employees.Under certain conditions, a corporation and its parent entity may form an income tax fiscal unity (Organschaft). The subsidiary's income is then generally attributed to the parent entity, allowing profits and losses within the fiscal unity to be offset for corporate income tax and trade tax purposes. Different requirements apply to a fiscal unity for VAT purposes.

Special Regulations

I. Intercorporate Privilege

In German tax law, the intercorporate privilege refers to the exemption of certain dividends and capital gains from corporate shareholdings from corporate income tax or trade tax.

The intercorporate privilege is intended to avoid multiple taxation of the same profits within a chain of corporations. Subject to the applicable requirements, certain dividends and capital gains from corporate shareholdings are therefore largely excluded from the tax base of the respective tax. This is not a privilege created solely for the beneficiary companies, but a correction intended to reduce multiple taxation.

If a corporation receives a profit distribution from another corporation in a classic parent-subsidiary constellation, the dividend is generally 95% tax-exempt for corporate income tax purposes. Dividend income is tax-free for corporate income tax purposes as the profits underlying the dividend distribution are subject to corporate income tax on the level of the company that generated them.

However, the legislator has inserted a small restriction in the tax exemption. This is because it considers administrative costs incurred by holding the investments to be tax-relevant. Therefore, 5% of the dividends are considered as non-deductible business expenses. Consequently, only 95% of the dividends are exempt from taxation. As a result, 5% of the dividend is subject to tax, leading to an effective tax burden of approximately 1.5%, depending on the applicable trade tax rate.

The intercorporate privilege also applies to gains from the sale of shares in a corporation. In general, 95% of such gains are exempt from corporate income tax and trade tax.

For the corporate income tax exemption of dividends, the recipient corporation must generally hold at least 10% of the distributing corporation at the beginning of the calendar year. No minimum holding period applies.

A business receiving dividends from another corporation may qualify for the trade tax intercorporate privilege if it holds at least 15% of the distributing corporation at the beginning of the tax period.For dividends from foreign subsidiaries, the following should be considered:

- **Foreign subsidiaries generally**: The trade tax exemption generally requires a direct participation of at least 15% at the beginning of the tax period. This applies to both EU and non-EU subsidiaries.
- **Subsidiaries resident in treaty countries**: An exemption may also be available under an applicable double tax treaty. The minimum participation is generally 15%, unless the treaty provides for a lower threshold. Any additional treaty requirements must also be met.

II. Interest Deduction Limitation (Interest barrier rule)

Definition

The interest barrier rule generally limits the deduction of net interest expense, i.e. interest expense exceeding interest income, to 30% of tax EBITDA. It applies irrespective of the legal form of the business, the residence of the lender or borrower, and the term of the financing.

Calculation of the tax EBITDA

	Taxable income (corporate income tax)
+	Interest expenses
-	Interest income
+	Depreciation
+	Amortisation
=	Tax EBITDA

Tax EBITDA is calculated on the basis of taxable income before applying the interest barrier rule, adjusted for net interest expense and relevant depreciation and amortization.

Interest expenses that are not deductible due to the restrictions under the interest barrier must be added off-balance sheet in the year in which they arise, thus increasing taxable profit or taxable income.

The interest expenses that are not deductible in the current fiscal year can be carried forward to the following years, i.e. a so-called "interest carryforward" arises. The interest expenses carried forward reduce the taxable profit or the taxable income in the following fiscal years to the extent that they can then be recognized as tax-reducing within the scope of the interest barrier regulation.
The interest barrier rule generally applies to all businesses, including sole proprietorships, partnerships and corporations.

Exemptions

The restrictions on the deduction of interest expenses under the interest barrier do not apply if one of the following exceptions applies:

- **EUR 3 million threshold**: The interest barrier does not apply if the business's net interest expense is less than EUR 3 million. This is an exemption threshold. If it is reached or exceeded, the entire net interest expense is subject to the interest barrier rule. In that case, net interest expense is generally deductible only up to 30% of tax EBITDA.

- **Stand-alone Clause:** The interest barrier does not apply if the taxpayer is not related to another person within the meaning of the applicable tax rules and does not maintain a permanent establishment outside its country of residence.

- **Escape-clause**: For a business belonging to a group, the interest barrier does not apply if the business's equity ratio at the end of the preceding financial year is not more than two percentage points below the group's equity ratio. For corporations, the exception is subject to additional restrictions on harmful shareholder debt financing.

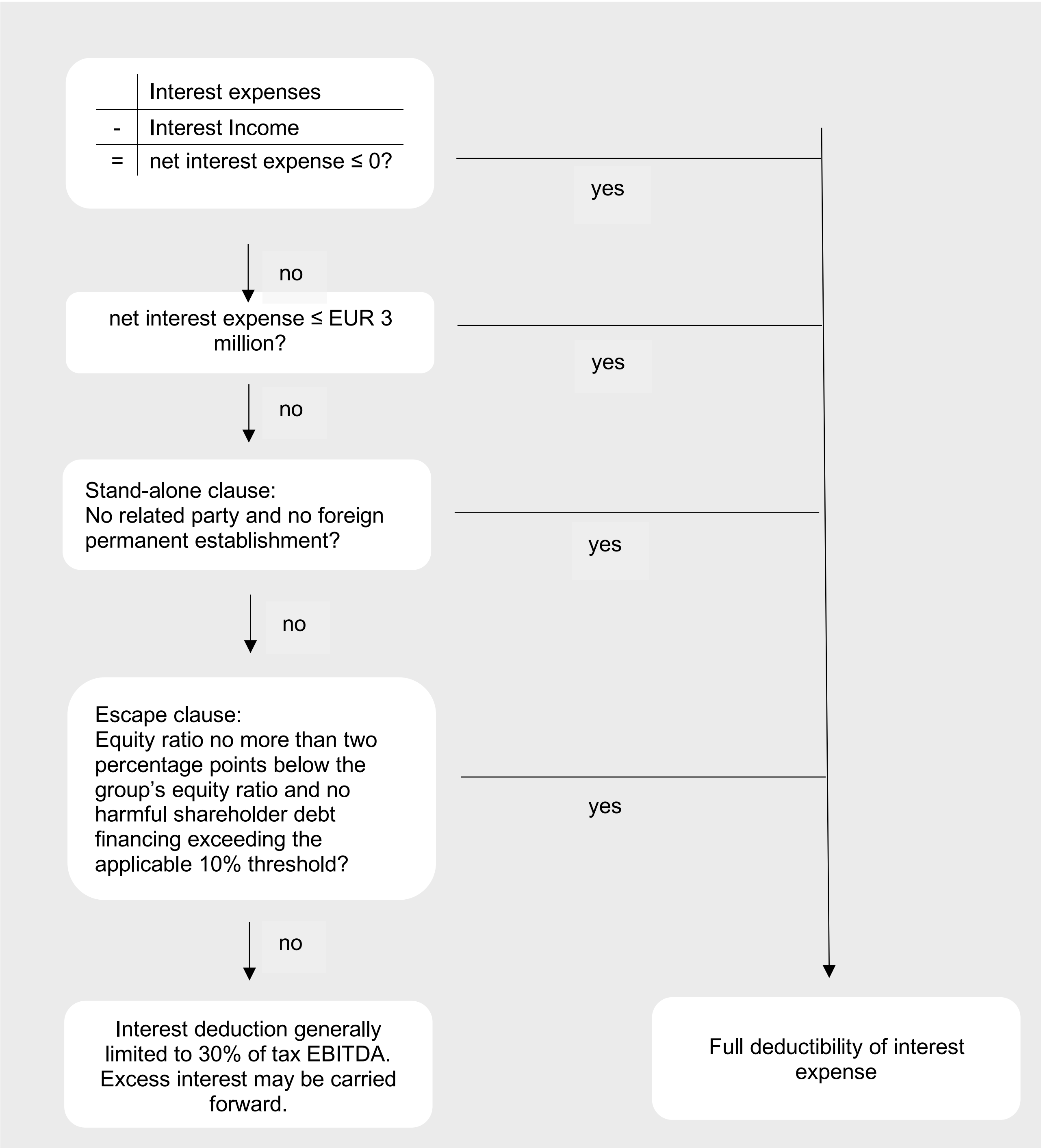
Interest Carry Forward

Interest expense that is not deductible under the interest barrier rule may generally be carried forward indefinitely and deducted in later years, subject to the applicable limitations.
The interest carryforward is determined separately for each business.

EBITDA Carry Forward

If the interest barrier applies and net interest expense is below 30% of tax EBITDA, the unused tax EBITDA may generally be carried forward for up to five years and may increase the amount of deductible interest expense in those years. The oldest EBITDA carryforward is used first.

Summary



III. Loss offsetting

In General

Losses are generally offset against positive income of the same tax year. For corporate income tax purposes, remaining losses of up to EUR 1 million are generally carried back first to the immediately preceding tax year and, to the extent they cannot be used there, to the second preceding tax year, unless the corporation elects to waive the carryback. Any remaining losses may be carried forward indefinitely. Trade tax losses cannot be carried back.

Loss carryforwards may be fully offset against taxable income of up to EUR 1 million. Until the end of 2027, 70% of taxable income exceeding EUR 1 million may also be offset. From 2028, this percentage will be reduced to 60%.

Loss utilization for Corporations

According to the German tax law, there are two main regulations for corporations governing the loss utilization for corporations.

- **Loss Forfeiture following a Change of Ownership**

If more than 50% of a corporation's capital, membership rights, participation rights or voting rights are transferred directly or indirectly to one acquirer, related parties or a group of acquirers with common interests within a five-year period, unused tax losses generally cease to be deductible. Certain exceptions may apply, including the group exemption, the hidden-reserves exemption and the restructuring exemption.

However, a loss incurred before a harmful share transfer during the year may still be carried back and offset against positive income of the preceding year.

- **Business Continuity Exception**

Upon application, losses may be preserved despite a harmful share transfer if the corporation has exclusively maintained the same business since its formation or at least since the beginning of the third tax year preceding the year of the share transfer. The same business must be continued until the end of the year of the share transfer, and no harmful event may occur during this period.

The application must be made in the tax return for the year in which the harmful share transfer occurs. The preserved losses become subject to a business continuity restriction and are separately assessed as a business-continuity loss carryforward. The rules generally apply to corporate income tax and trade tax loss carryforwards. Interest carryforwards may also be forfeited following a harmful share transfer or preserved under the business continuity exception.

The same business must generally be continued until the preserved losses have been fully used. The remaining loss carryforward may be forfeited if the business is discontinued or materially changed, or if certain other harmful events occur. However, it may be preserved to the extent it is covered by taxable hidden reserves existing at the end of the preceding tax year.

IV. Income Tax Fiscal Unity

What is a Fiscal Unity?

A German income tax fiscal unity allows the income of a subsidiary to be attributed to its parent entity for corporate income tax and trade tax purposes.

The principal requirements are:

1. The parent entity must hold, directly or indirectly, a majority of the voting rights in the subsidiary throughout the subsidiary’s financial year.
2. The subsidiary must be a corporation, such as a GmbH, AG or European Company (SE), with its place of management in Germany and its registered office in Germany or another EU or EEA country.
3. The parent entity may be an individual, a corporation or a partnership. It must operate a commercial business, and the shares in the subsidiary must generally be attributable to a German permanent establishment of that business. Additional requirements apply to partnerships, which must generally carry on their own genuine business activity.
4. The parent entity and the subsidiary must enter into a profit and loss transfer agreement.

Where registration is required, the agreement generally becomes legally effective upon entry in the commercial register. It must be concluded for at least five years and must actually be performed throughout its term. In particular, the profit-transfer and loss-absorption obligations must not merely be recorded in the accounts but must also be paid, set off or otherwise effectively settled. Failure to comply with these requirements may result in the fiscal unity not being recognized for tax purposes.

Main Advantages and Risks

The subsidiary’s income is determined separately but generally attributed to and taxed at the level of the parent entity. This allows profits and losses within the fiscal unity to be offset for corporate income tax and trade tax purposes.

Because the transferred profit is not treated as a dividend, the 5% non-deductible business expense rule applicable to tax-exempt intercorporate dividends generally does not apply to the profit transfer itself.
For interest-barrier purposes, the fiscal unity is generally treated as a single business. The pooling of interest expense, interest income and tax EBITDA may improve interest deductibility in some cases but may also have adverse effects.

The subsidiary remains a separate legal entity and retains its limited-liability status. However, the parent entity must generally absorb the subsidiary’s annual losses and may therefore face significant financial burdens.

Fiscal Unity for VAT Purposes

A separate fiscal-unity regime applies for VAT purposes. Under the current rules, a VAT fiscal unity generally arises automatically if the applicable financial, economic and organizational integration requirements are met. The parent entity is then treated as the relevant taxable person for the VAT group, and supplies between members of the group are generally not subject to VAT.[1]

[1] Under the government’s current reform proposal, the effects of a VAT fiscal unity would arise only following a declaration by the parent entity with effect for the future. The proposed declaration procedure is currently intended to apply from 1 January 2029.

Other Taxes Applicable to Businesses and Entrepreneurs

An annual **>** *Real Property Tax* is imposed on all immovable property, regardless of whether the property is held as a business asset or for private use. The tax base is determined under the applicable federal or state property tax rules. The effective tax rate depends on the applicable valuation rules and the municipal multiplier.

Any transfer of real estate located within the territory of Germany to a new owner is subject to **>** *Real Estate Transfer Tax (RETT)*. Taxable transfers for RETT purposes are defined broadly, and RETT may also be triggered by certain restructurings or transfers of shares in real estate-owning entities. RETT rates are set by the federal states and range from 3.5% to 6.5% of the purchase price and any other consideration for the transfer or, in certain cases, the assessed value of the real estate.

As a result of the Federal Constitutional Court's decision of 10 April 2018, real property tax law underwent a fundamental reform. The new rules took effect on 1 January 2025. While the federal model applies in most federal states, some states have enacted their own property tax rules, including Hamburg, Lower Saxony, Hesse, Bavaria and Baden-Württemberg. Under the federal model, the property tax value serves as the tax base, with either the income approach or the cost approach being applied depending on the type of property. Standardized tax assessment rates apply under the federal model, including 0.031% for residential properties, 0.034% for non-residential properties and undeveloped land, and 0.055% for agricultural and forestry operations.

Importers are obliged to declare all goods intended for commercial use to customs, even if they are duty-free. The rates for **>** *Customs Duties* differ depending on the imported goods and their source. Defined rates, uniform across the EU, are applied to all imported goods released for free circulation. *Excise duties* are levied on various items, including tobacco, alcohol, petrol, oil and heating oil.

German withholding tax on dividends and certain other investment income generally amounts to 26.375%, including the solidarity surcharge, and is retained at source. Non-resident companies may be entitled to a full or partial exemption or refund under German law, an applicable double tax treaty or the EU Parent-Subsidiary Directive, subject to the applicable anti-treaty-shopping rules.

The statutory withholding tax rate on royalties and certain lease payments for movable property paid to recipients resident outside Germany is 15.825%, including the solidarity surcharge. Withholding tax on royalties may be reduced or eliminated under an applicable double tax treaty or the EU Interest and Royalties Directive.

Other Tax Matters for International Businesses

I. Double Tax Treaties and Tax Relief

Double tax treaties (DTTs) allocate taxing rights between countries and generally provide relief where the same income may otherwise be taxed in both the source state and the taxpayer's state of residence. Depending on the applicable treaty, relief is generally provided by exempting the income in one country or by crediting foreign tax against domestic tax.

Where the applicable rules provide for a tax credit, qualifying foreign income taxes may generally be credited against the German tax payable on the relevant foreign income. In certain cases, foreign taxes may instead be deducted when determining taxable income.

Most DTTs follow the OECD model treaty. Germany has concluded treaties with about 90 countries.

II. Anti-avoidance Rules

German tax law contains various anti-avoidance rules, including controlled foreign company rules and provisions against treaty shopping. Relevant rules are contained in the Foreign Tax Act (Außensteuergesetz), the Income Tax Act and the German Fiscal Code (Abgabenordnung).

Taxpayers are generally free to arrange their affairs in a tax-efficient manner. However, an inappropriate legal arrangement may be disregarded if it results in a tax advantage not intended by law and cannot be justified by significant non-tax reasons.

In addition to the General Anti-Avoidance Rule (GAAR), German tax law contains various specific anti-avoidance rules, including the interest barrier rule and extensive transfer pricing provisions.

Germany also applies exit taxation rules. In particular, an individual who has been resident in Germany for a specified period and holds a substantial shareholding in a corporation may be taxed on unrealized gains when moving abroad, even if the shares are not actually sold. Similar tax consequences may arise if the shares are transferred to a person resident outside Germany or if Germany's right to tax a future disposal is otherwise restricted.

III. Related-party Transfer Pricing

Cross-border transactions between *related parties* are regulated by extensive transfer pricing rules and may create the risk of a double taxation. These rules do not only establish methods to determine transfer prices, but also include comprehensive rules in respect to transfer pricing documentation, which can be of major concern in tax audits. Accordingly, foresighted tax planning may be very beneficial for related parties with regard to any transactions, the allocation of income, intercompany service charges or the secondment of staff.

German transfer pricing rules are based on recommendations by the OECD and must meet the arm's length principle. The most appropriate transfer pricing method must be selected based on the circumstances of the particular transaction and the availability of reliable data. Common methods include:

- With the *comparable uncontrolled price method*, transfer prices are based on comparable prices for third parties.
- Calculation of transfer prices with the *cost plus method* is based on the actual costs of the producer or service-provider and its pricing policy towards third parties.
- Under the resale price method, the transfer price for goods purchased from a related party is determined by subtracting an appropriate profit margin from the price charged when the goods are resold to a third party.

Other recognized methods, including the transactional net margin method and the profit split method, may be used where they are more appropriate for the transaction concerned.

About S·K·

S·K· assists you in developing your strategy for doing business in Germany and meeting the legal and economic requirements relevant to your investment. By mapping out the details of your plans and assessing the resources required, we can help you grow your business in Germany smoothly and achieve lasting success.

Reliable Advice for Your Decisions for Over 30 Years

In cooperation with our professional colleagues in the Leading Edge Alliance (LEA), we are well equipped to meet the requirements arising from the increasing internationalization of economic and legal systems. Through these networks, we monitor legal developments and their implications and share international business expertise and contacts with companies and chambers around the world.

Our experienced auditors, tax consultants, lawyers and M&A specialists look forward to supporting your business activities in Germany, whether you are establishing, expanding or relocating a business. Please contact us directly or visit our website www.sk-berater.com.

Our Experts

Lothar Boelsen
Managing Partner, Auditor, Tax Consultant, Legal Advisor
E-mail: lb@sk-berater.com

Area of expertise:

- Assisting family-owned enterprises
- Auditing and advising not-for-profit organizations of all legal forms
- International tax law
- Restructuring consulting
- Business management and tax-related advice (for all legal forms and industries)

Patrick Wochner
Tax Manager
E-mail: pw@sk-berater.com

Area of expertise:

- Ongoing tax advisory services for companies and corporate groups, particularly family-owned businesses
- Tax advisory and compliance services for private equity and venture capital structures
- Tax advisory services for entrepreneurs and high-net-worth individuals, particularly in connection with investment assets and asset management companies

Julia Tytko
Tax Consultant
E-mail: jt@sk-berater.com

Area of expertise:

- Global Mobility Services
- Tax advice for international and national clients on a day-to-day basis

Disclaimer

The S·K· Taxation of Profits Guide for Germany is issued by S·K· Steuerberatungs GbR in Frankfurt in August 2026. The information contained in this present guide has been assembled in 2026 and is based on present law and current available information.

Please allow us the short notice that the guide is containing information of general nature only and does not substitute any professional financial, legal, tax or other advice. Whilst S·K· has taken every care in assembling the most relevant information, we cannot guarantee accuracy or completeness of the guide. Hence, S·K· cannot assume liability for any acting upon the information contained in the guide.

The online publication is believed to be free of any virus or defect. If, despite our use of anti-virus-software, a virus enters your systems in connection with the download of this publication, you may not hold us liable for any damages that may possibly arise in that connection. We still accept liability which by law we cannot exclude.

Prof. Dr. K. Schwantag · Dr. P. Kraushaar GmbH
Auditing Company

Prof. Dr. K. Schwantag · Dr. P. Kraushaar Steuerberatungs GbR
Tax Consulting Company

Wiener Straße 146
01219 Dresden
Telefon +49 351 254 77-0
Telefax +49 351 254 77-90
dresden@sk-berater.com

Zeilweg 42
60439 Frankfurt/Main
Telefon +49 69 971 231-0
Telefax +49 69 971 231-70
frankfurt@sk-berater.com

www.sk-berater.com