



Federal Ministry
of Finance



An ABC of Taxes

2013 Edition

Introduction

There are many tasks in society that cannot be performed by individuals alone. These tasks include the provision of education, public infrastructures, health care, a social safety net and internal and external security. In such areas the state acts on society's behalf. Its activities are financed from tax receipts and they are the state's most important source of revenue. Without this resource, the state would not be able to take action in the interests of all citizens.

This booklet provides information about the different types of taxes in effect in Germany. It tells you who has to pay taxes, what those taxes are for and how much they are. It also reviews the historical development of taxes and other charges, and describes the legal basis on which they are levied.

The Federal Ministry of Finance

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Taxes and fiscal charges:

An overview in facts and figures

The Fiscal Code

The Fiscal Code as published on 1 October 2002 (Federal Law Gazette I, p. 3866, 2003 I, p. 61; Federal Tax Gazette I, p. 1056) brings together the rules applying to all taxes as a compendium of general tax law. Such rules relate to taxation procedure especially, and range from arrangements for determining the tax base to the assessment, collection and enforcement of taxes, to out-of-court remedies and to fines and penalties. The Fiscal Code is the basis of a taxation process that is designed to be as un-bureaucratic and efficient as possible, and as such creates a balanced relationship between the interests of the community and those of the individual taxpayer.

The individual tax laws stipulate the circumstances in which any specific tax is payable. The Fiscal Code sets out the basic rules on how a tax is determined, to whom the tax applies, and when the tax is to be paid. The Fiscal Code generally applies to all taxes and tax allowances governed by federal law or the law of the European Union and administered by *Land* or federal revenue authorities. Subject to the law of the European Communities (and the Customs Code especially), the Fiscal Code is applicable to customs duties and agricultural levies. It is also to be applied to the collection of numerous other levies as provided under *Land* regulations.

Rules

Tax laws

The Fiscal Code is divided into nine parts. The first parts include introductory rules and the legal provisions on tax liability. These sections explain, for instance, the basic principles valid for all taxes, and thus include the following general definition for the concept of taxes (cf. section 3 subsection (1) of the Fiscal Code):

“Taxes shall mean payments of money, other than payments in consideration of the performance of a particular activity, which are collected by a public body for the purpose of raising revenue and imposed by the body on all persons to whom the characteristic on which the law bases liability for payment apply; the raising of revenue may be a secondary objective.”

Taxes

The concept of “taxpayer” as applicable in tax legislation is defined in section 33 subsection (1) of the Fiscal Code:

“Taxpayer shall mean any person who owes a tax, is liable for a tax, who is obliged to withhold and give to revenue authorities a tax which is due for account of a third party, to file a tax return, to provide collateral, to keep accounts and records or to discharge other obligations imposed by the tax laws.”

The taxpayer

The Fiscal Code further determines what claims arise from the tax debtor-creditor relationship (such as a taxpayer’s claim to refunds), what transactions enjoy tax relief, on what conditions a person is held liable for the tax debt of another, and how time limits are set and extended.

The provisions on tax secrecy are of particular importance. As part of their obligation to assist the authorities, taxpayers have to submit a full statement of their tax affairs to the revenue authorities; the confidentiality of the information they furnish must therefore be assured. The parties under an obligation to observe tax secrecy and the conditions under which protected data may be disclosed or used are set out in sections 30, 31 and 31a and 31b of the Fiscal Code.

Tax secrecy

Uniform and lawful taxation

The Fiscal Code also contains general rules of procedure. The corresponding section places particular emphasis on the principle of uniform and lawful taxation prescribed by the Basic Law. It contains rules on the obligation of individuals to provide information, on the consultation of experts, on the presentation of documents and valuables, as well as on the authority to enter premises. It also states, however, the circumstances in which persons may refuse to give information and the instances in which the revenue authorities should give guidance and information to taxpayers. Under the conditions of section 89 subsection (2) of the Fiscal Code, the tax offices and the Federal Central Tax Office may, upon application, issue advance rulings on the tax assessment of a specific, but still theoretical, set of circumstances if this could have a considerable impact on the taxpayer's tax situation.

The provisions concerning the implementation of the tax process form the main part of the Fiscal Code. In the interests of legal certainty, they contain a detailed description of the rights and obligations of the revenue authorities on the one hand and taxpayers on the other. The Fiscal Code gives particular weight to the cooperation expected of taxpayers, because the revenue authorities depend to a significant degree on such cooperation when determining the basis for assessment. The Fiscal Code therefore contains rules about obligations to file tax returns and keep accounts. The rules on accounting and record-keeping requirements do not require the use of any particular system; the general principles of orderly accounting apply.

Tax number allocation

The Fiscal Code also sets out the legal basis and purpose, from the perspective of data protection law, for collecting and using the tax identification number in accordance with section 139b of the Fiscal Code. The tax identification number which the Federal Central Tax Office assigns permanently to every taxpayer makes the taxation process more effective and responsive to taxpayers' needs, allowing the diverse range of pre-existing numbering systems to be gradually phased out.

Tax assessment

The Fiscal Code lays down the form in which a tax may be assessed as well as the conditions and time limits that apply. Section 155 subsection (1) of the Fiscal Code, for instance, states that taxes must generally be assessed by way of tax assessment notice. As a rule, the tax assessment notice must be issued in writing (cf. section 157 subsection (1), first sentence, of the Fiscal Code). The tax assessment notice specifies the tax to be paid or the tax rebate to be received and is the official basis for enforcing the claim. Where taxpayers are required to calculate the tax in their tax returns, such a tax return is referred to as a self-assessed tax return and it generally replaces the tax assessment notice that is otherwise required. The self-assessment system (cf. sections 167 and 168 of the Fiscal Code) reduces the workload of all parties involved and enables tax and refund claims to be implemented more quickly.

Tax assessment
notice

To avoid the submission of class-action lawsuits, section 165 of the Fiscal Code allows tax assessment notices to be issued provisionally in light of test cases before the Federal Constitutional Court, the European Court of Justice or the supreme federal courts. Tax may also be assessed provisionally if the Federal Constitutional Court has obliged legislators to amend a tax law that is not compatible with the Basic Law. There is no need for an objection to be filed in order for the provisional tax assessment to be cancelled or amended on account of such a court decision or change in the law.

Period for
assessment

Section 169 of the Fiscal Code governs the time limit for assessment, stating that it is not permissible to undertake, cancel or amend an assessment once the period for assessment has expired. The time limit for assessing excise duties and excise duty rebates is one year. In the case of import and export duties, Article 221 (3) of the Customs Code applies. This states that assessment generally cannot be undertaken after the expiry of a period of three years from the date on which the customs debt was incurred. The time limit for the assessment of all other taxes and tax refunds (especially income tax, VAT and corporation tax) is four years. The limit is 10 years if a tax has been evaded and five years if the tax has been understated through gross negligence. Sections 170 and 171 of the Fiscal Code standardise various limits concerning the beginning and end of the period for assessment so that the specifics of the cases they deal with are accommodated better in the interests of ensuring fair taxation.

The provisions relating to the enforceability of tax assessment notices are also of significance. In the interest of legal certainty, tax assessment notices may be cancelled, amended or adjusted only insofar as is permissible by law. In this respect it is immaterial whether any error is to the benefit or detriment of the taxpayer. It is not at the revenue authorities' discretion to override enforceability.

Adjustment

Outside the appeals procedure (see below), a tax assessment notice may be cancelled or amended in accordance with section 173 of the Fiscal Code if facts or evidence leading to a higher or lower tax are subsequently ascertained. If the new facts or evidence lead to a lower tax, the tax assessment notice may be adjusted only if the subsequent disclosure of such facts or evidence is not attributable to grave negligence on the part of the taxpayer. In return, the principle of equity and fair dealing (which also extends to tax law) prohibits the tax office from amending a tax assessment notice in accordance with section 173 of the Fiscal Code on the basis of the subsequent disclosure of facts or evidence that would lead to higher taxation, if such facts or evidence would not have remained unknown to the tax office when properly fulfilling its duty of inquiry, provided that the taxpayer in turn has fully complied with his/her obligation to cooperate. Section 174 of the Fiscal Code governs the adjustment of tax assessment notices in the event of conflicting assessments. Section 175 of the Fiscal Code stipulates that a tax assessment notice is to be issued or corrected to the extent that a basic assessment notice which has binding effect on this tax assessment notice is issued or corrected, or to the extent that an event has occurred which has a retroactive impact on taxation.

External audits

The revenue authorities are entitled to verify the information provided by taxpayers, and the authorities may do this with the aid of external auditors. External auditors generally conduct their audits on site where the cases concern earnings from agriculture or forestry, independent personal services and commercial undertakings. The audits may, however, be conducted directly on official premises, i.e., at the revenue authority offices. While the external audit procedure calls for a broad degree of cooperation from taxpayers, it also ensures that they have an extensive right to be heard and to lodge appeals. A special administrative regulation valid throughout Germany (called the Tax Audit Ordinance) contains further rules that public authorities must follow in connection with auditing and internal procedures. Customs has special powers of search when ensuring tax compliance. VAT inspections are governed by the VAT Act.

Enforcement

Subsequent provisions in the Fiscal Code deal with collection and enforcement procedures which show when a tax is due and the consequences of delayed payment. Where taxes are not paid when due, the revenue authorities may compulsorily recover taxes in accordance with the relevant legal provisions. The Fiscal Code also stipulates the circumstances under which a tax may be deferred or a tax remission granted on equitable grounds. Further provisions relate to interest accruing on claims from the tax debtor-creditor relationship (section 233 ff.) and the imposition of penalties for late payment (section 240).

Appeals

This is followed by the rules on out-of-court remedies (the appeals procedure; cf. section 347 ff.). The appeals procedure serves to protect taxpayers' rights and enables the revenue authorities to review their decisions without recourse to proceedings before the fiscal courts. The procedure is free of charge to the taxpayer. The provisions on appeals in court proceedings are set out in the Code of Procedure for Fiscal Courts.

Penalties

Finally, the Fiscal Code includes substantive regulations on tax crimes and other tax offences, as well as special provisions on criminal and administrative fines proceedings. These are imposed in accordance with the Administrative Offences Act. In certain cases, the revenue authorities may themselves conduct investigations. These are carried out on their behalf by the tax (or customs) investigation services.

Tax consultancy (assistance in tax matters)

Taxpayers may secure the help of third parties in fulfilling their tax obligations. However, the privilege of giving professional assistance of this kind is reserved for persons and companies who are authorised by law to do so.

The group authorised to provide unrestricted assistance in tax matters primarily covers tax consultants, tax representatives, auditors and certified accountants as well as the companies they form (partnerships, tax consulting companies, law firms, auditing firms and accounting firms).

Persons who are professionally established in a member state of the EU, in a contracting state to the European Economic Area other than Germany, or in Switzerland, and who provide professional assistance in tax matters there under the law of the state of establishment, are authorised to provide temporary and occasional assistance in tax matters in Germany. These persons are permitted to do so in Germany only if the relevant association of tax advisers is notified in writing before the service is first performed.

Other persons, businesses or entities may also render limited assistance in tax matters, provided certain conditions have been met.

It is permitted for instance, for:

- trades organisations to establish service facilities to look after their members' tax affairs
- administrators of buildings and other properties to handle tax matters connected with the objects they administer
- banks advising their customers on investments to inform them, e.g., about the effects on income tax and state savings premiums
- trade unions, associations of property and real estate owners and other organisations of a professional nature to advise their members in tax matters connected with their professional interests
- forwarding agents to provide assistance concerning import duties or the charging of excise on intra-Community goods

Who can provide assistance?

- other commercial operators to provide assistance concerning import duties in connection with customs procedures
- self-help organisations to assist members on wage tax matters (doing so within the scope of their legal powers)

The Tax Consultancy Act includes provisions on the tax advisory profession and supervision of the profession.

Jurisdiction in tax matters

As in other fields of administrative law, taxpayers who do not agree with a decision taken by the tax authorities can assert their rights before the courts. Jurisdiction in tax matters is vested in the fiscal courts. The administration of justice in tax matters serves first and foremost to protect the individual against any unlawful measures taken by the tax authorities with regard to taxes and duties. Additionally, it serves to monitor the correct application of tax law by the administrative authorities, and it provides tax legislators with suggestions/indications regarding the further development of tax law.

Jurisdiction in tax matters is exercised by specialised independent tribunals that are separate from the revenue authorities. The organisation and procedures of these tribunals are regulated in the Code of Procedure for Fiscal Courts. At the *Länder* level, fiscal jurisdiction appertains to the fiscal courts proper, and at the federal level to the Federal Fiscal Court, which is located in Munich.

The fiscal courts pass judgement in the first instance, being the only instance where the facts of a case are established. There are no fiscal courts dealing with appeals on a question of facts. Fiscal courts rank as higher *Land* courts and generally have jurisdiction for the territory of one *Land* only. North Rhine-Westphalia has three fiscal courts and Bavaria has two. Berlin and Brandenburg share a fiscal court. The other *Länder* have one fiscal court each.

Legal redress

Legal action

In general, an action may be taken to the fiscal courts only after out-of-court remedies (involving objections under the relevant provisions of the Fiscal Code) have been exhausted. These objections allow revenue authorities to review their decision, and complainants also have the opportunity to reconsider their standpoint. Over 98% of all tax disputes are settled by these means.

Action may be brought before the fiscal courts in order to have an administrative act cancelled or amended, to enforce the issuance of an administrative act which the fiscal authority concerned has refused to issue or refrained from issuing, to enforce some other action on the part of the authority, or to achieve a declaratory judgement establishing the existence or non-existence of a legal relationship between the applicant and the authority or the invalidity of an administrative act.

Subject to certain conditions, an appeal against the decision of a fiscal court may be carried to the Federal Fiscal Court. In an appeal of this kind, the decision of the fiscal court can be examined for errors of law and procedure, but a re-determination of facts is not admissible as a rule. In appeals to the Federal Fiscal Court, taxpayers must be represented by a lawyer, a tax consultant, tax representative, auditor or certified accountant.

International and supranational tax law

The term ‘international tax law’ refers to any of the provisions under Germany’s domestic tax law that relate to persons resident abroad or to tax-related matters abroad involving German residents; the term also covers the international agreements governing taxation in cross-border cases. The term ‘supranational tax law’ is mainly connected with the EU/European Community and involves a transfer of nation-state jurisdiction, which leads, in the case of tax law for instance, to higher rulings and arrangements of a binding nature for the member states.

Agreements on the avoidance of double taxation and tax evasion form the bulk of Germany’s international tax law.

Double taxation poses a considerable barrier to trade and investment where companies operate internationally. Double taxation agreements are intended to dismantle such tax barriers in order to promote and enhance international economic ties.

These agreements are international treaties that provide a contractual means of avoiding cases where the same taxpayer is charged twice in the same period for comparable taxes on the same income. Double taxation can be avoided if the country where the income is earned (the state of source) withdraws or restricts tax on the beneficiary of the income. Another option is for the country of residence not to tax income which is taxed in the state of source, or for the country of residence to credit foreign tax against its own tax charge. Arrangements regarding the exchange of tax information and mutual assistance in assessing and recovering taxes are also covered in double taxation agreements. In their core structure, the double taxation agreements concluded by Germany are based on the model conventions developed by the Organisation for Economic Cooperation and Development (OECD). Germany has concluded double taxation agreements with around 90 countries and thus created a very dense treaty network. The agreements generally cover the taxation of income and capital. Agreements have also been concluded with a number of countries to prevent double taxation with respect to inheritance and gifts, as well as other agreements relating to motor vehicle tax in international traffic.

Double taxation

Tax legislation for non-residents

Tax legislation for non-residents refers to those provisions of German tax law dealing specifically with cross-border matters. This includes those provisions of the Income Tax Act and the Corporation Tax Act that are designed to avoid double taxation (via tax credit relief) when taxing foreign income derived by persons/companies resident in Germany (i.e., in cases where the taxpayer has unlimited tax liability and the entirety of the taxpayer's income is taxed regardless of whether it was acquired in Germany or elsewhere); it also covers the provisions on the taxation of persons/companies resident abroad and deriving income from domestic German sources (i.e., in cases where the taxpayer has limited tax liability and where Germany has the right to exercise jurisdiction). Where the Corporation Tax Act does not contain a corresponding provision, it indicates which arrangements of the Income Tax Act apply.

Tax legislation for non-residents also embraces the External Tax Relations Act:

External Tax Relations Act

The External Tax Relations Act contains a provision on the adjustment of income arising from cross-border business relationships with related foreign persons or companies, and on the allocation of income between a domestic enterprise and its foreign permanent establishment, based on the arm's length principle. In addition to the rules in the Income Tax Act and the Corporation Tax Act, this provision is intended to facilitate the appropriate allocation of multinational companies' income to the states involved and, in particular, to prevent income from being shifted abroad artificially. To achieve this, the provision empowers the tax authorities to adjust the income a taxpayer derives from cross-border business relationships (i.e., from the exchange of goods and services within international enterprise groups especially). The adjustment is made especially in cases when a taxpayer calculates income on the basis of conditions – particularly prices (transfer prices) – that are different from those which independent companies would have agreed to under the same or comparable conditions (i.e., under the arm's length principle) and that would otherwise have an adverse impact on German tax revenue. To define the arm's length principle and transfer prices, the Transfer of Functions Ordinance was enacted on the basis of the External Tax Relations Act and deals with a special area of business relationships.

The Federal Ministry of Finance has also issued several circulars based on various OECD reports on this topic (especially the 1995 OECD Transfer Pricing Guidelines). These circulars and the OECD guidelines are subject to continuous review.

The External Tax Relations Act also contains rules on taxation involving controlled foreign companies. Such taxation aims to prevent unwarranted tax advantages that can be gained from exploiting the differences in taxation from country to country by founding companies and permanent establishments in low-tax jurisdictions. This is achieved primarily by attributing a foreign company's profits as the national taxpayer's own income in certain circumstances.

In addition, the External Tax Relations Act pools the provisions on enhanced limited tax liability and capital gains taxation for natural persons who transfer their place of residence outside Germany.

As supranational law, the provisions contained in the Treaty on European Union which concern the harmonisation of taxes within the Community are of special significance. The considerable progress already made on the harmonisation of VAT is an essential step towards Community-wide alignment of competitive conditions.

The Parent-Subsidiary Directive, the Merger Directive, the Interest and Royalties Directive and the Arbitration Convention for transfer prices remove fiscal obstacles that international companies face in the field of direct taxation.

Mutual administrative and legal assistance between the tax authorities of different countries also falls under the heading of international and supranational tax law. The provision of assistance is conditional upon the other country's ability to (i) guarantee the legal protection of the taxpayer and (ii) ensure tax secrecy at a similar level to that established in the Federal Republic of Germany. Mutual assistance enables tax authorities to effectively assess and collect taxes even where business relations cross international borders. Corresponding provisions can be found in the Fiscal Code; in agreements on double taxation, administrative and legal assistance, and the exchange of information; as well as in the EU Mutual Assistance Act and the EU Recovery Act.

OECD

Unwarranted tax
advantagesAdministrative and
legal assistance

A guidance note on the principles applying to international assistance in assessing taxes was most recently published by the Federal Ministry of Finance on 25 May 2012 (see Federal Tax Gazette I, p. 599). The guidance note is also available on the Federal Central Tax Office website. The provision of mutual assistance between the tax authorities of the EU member states concerning direct taxes is governed, inter alia, by Council Directive 2011/16/EU of 15 February 2011 (OJ L 64, 11.3.2011, p. 1). This Directive was transposed into German national law by the Act Transposing the Mutual Assistance Directive and Amending Tax Provisions, which was adopted on 26 June 2013 (Federal Law Gazette I 2013, p. 1809). The EU Mutual Assistance Act also applies to assisting member states in assessing tax on insurance premiums.

In the field of VAT, international administrative assistance is governed by “Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax” (OJ L 268, p. 1). This Regulation enhanced and recast “Council Regulation (EC) No 1798/2003 of 7 October 2003 on cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92” (OJ L 264, p. 1). Regulation (EU) No 904/2010 entered into force on 1 November 2010. It largely applies with effect from 1 January 2012. Parts were implemented with effect from 1 November 2010, with others being implemented from 1 January 2013. The Regulation applies directly in all member states.

Harmonised excise duties (on tobacco products, alcohol, alcoholic beverages, energy products and electricity) are covered by “Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004” (OJ L 121, 8.5.2012, p. 1), which is also applied directly in the member states.

The principles of international assistance in collecting (and recovering) taxes were most recently published by the Federal Ministry of Finance in a guidance note dated 29 February 2012 (see Federal Tax Gazette I, p. 240). The guidance note is also available on the Federal Central Tax Office website. The provision of mutual assistance between EU member states’ tax authorities in collecting taxes (including direct and indirect taxes) is handled in line with “Council Directive

2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures” (OJ L 84, 31.3.2010, p. 1). This Directive was transposed into German national law by the EU Recovery Act of 7 December 2011 (Federal Law Gazette I, p. 2592). The Federal Ministry of Finance first published a guidance note on the principles applicable to international legal assistance concerning criminal matters on 16 November 2006 (see Federal Tax Gazette I, p. 698).

Agricultural levies in the EU

Levies

The imposition of levies under the Common Agricultural Policy (CAP) is governed directly by EU law. The Basic Law makes allowance for these levies in Article 106 paragraph (1) number 7 and Article 108 paragraph (1). The common basis for such levy arrangements is provided in Article 40 in conjunction with Article 38 and Article 39 of the consolidated version of the Treaty on the Functioning of the European Union. The Treaty provides for the establishment of a common organisation of markets for agricultural products (products listed in Annex I to the Treaty). The purpose is to achieve the CAP objectives described in Article 39. These objectives are:

- to increase agricultural productivity
- to increase the individual earnings of persons engaged in agriculture
- to stabilise markets
- to ensure that supplies reach consumers at reasonable prices

As far as most agricultural products are concerned, the aim is to reach these objectives through extensive regulation of the market by way of prices. The different types of levies are briefly described below.

Import levies

Agricultural import levies are imposed on imports of agricultural products to EU member states at rates set under the EU's common organisation of agricultural markets. They are classified as taxes under section 3 subsection (1) of the Fiscal Code. The Community target prices, decided annually, must be offset and maintained against third countries whose prices are substantially determined by world price levels. To put it simply, this is achieved by applying the difference between the world market price and the Community price as a levy to imports of agricultural products or by refunding the difference in the case of exports. If, in exceptional cases, the world market price should be higher than the Community price, the difference can be refunded for imports and levied on exports.

Under the farming section of the multilateral agreement that emerged from the Uruguay round of GATT trade talks on 15 April 1994, the EU undertook to convert the import levies and all measures restricting imports into set tariffs and to reduce them by an average of 36% over a six-year period as of 1 July 1995.

The statutory bases for the collection of import levies are:

- a) The regulation establishing a common organisation of agricultural markets and on specific provisions for certain agriculture products (Single CMO Regulation), together with numerous amending and implementing regulations.
- b) Regulations made by the European Commission setting the amount of each individual agricultural levy. As the EU issues some 3,000 agricultural regulations each year, most of which have only a limited period of validity, listing them in detail would go beyond the scope of this booklet.

The levies (referred to as agricultural duties as of 1 July 1995) are collected by the federal customs authorities and paid into the EU budget as own resources.

Export levies are applied where world prices for goods covered by common market organisation are higher than Community prices and the internal market could suffer serious disturbance as a result of excessive exports. Export levies may also be imposed on goods subject to market organisation for which no export licence is required when the existence or the threat of serious imbalances in the internal market would require protective measures of this kind to prevent any unwelcome outflow of products. Export levies are not, therefore, part of the permanent machinery, but are collected only under special market conditions. Export levies in trade with third countries were first introduced as of 8 April 1971 for certain products falling under the common organisation of markets for milk and milk products. Export levies are collected by the customs offices (the Federal Customs Administration), applying (*mutatis mutandis*) the provisions of customs laws governing the collection of duties.

Legal basis

Export levies

The national implementing regulations on export levies are set out in sections 23 to 25 of the Implementation of the Common Organisation of Markets Act as published on 20 September 1995 (Federal Law Gazette I, p. 1146). The Hamburg-Jonas Main Customs Office has generally been responsible for the collection of export levies for the whole of the Federal Republic since 1 August 1974.

There is currently no provision for export levies on agricultural products.

Surplus production

The Single CMO Regulation contains a quota system for the sugar sector – which has also included isoglucose since 1 July 1981 and inulin syrup since 1 July 1994 because these are substitutes for liquid sugar. The quota arrangement is intended to keep surplus production within reasonable limits (the production of sweeteners in the Community constantly exceeds consumption). Each sugar and isoglucose producer in the Community has been allocated a quota. There are no restrictions on the sale of products produced within these quotas.

Sugar and isoglucose produced in excess of the quotas may not be sold freely on the internal Community market. Manufacturers must either export these products to third countries without benefiting from any export relief or deliver them to processors for the purposes of manufacturing certain industrial sugar products; failure to do so will result in the imposition of a surplus levy.

Storage obligation

In order to compensate for unforeseen fluctuations in production (resulting, e.g., from bumper harvests or crop failures), sugar producers may transfer part of any production exceeding the quota to the following crop year. They must hold the amount of sugar thus transferred in store for 12 months. Failure to observe the storage obligation will result in the imposition of a surplus levy.

Production levies

As part of the reformed sugar market, producers of sugar, isoglucose and inulin syrup are charged production levies on what they produce up to their quota amount.

Sugar producers can pass on part of these production levies (as well as part of the costs connected with the sale of sugar produced over quota) via the prices they pay to sugar beet growers. The aim of this is to discourage the growers from producing surpluses. Production levies

are charges imposed for the purpose of regulating the economy, and as such, do not directly come under the definition of taxes given in section 3 of the Fiscal Code. In accordance with section 12 of the Implementation of the Common Organisation of Markets Act, however, the provisions of the Fiscal Code are applied accordingly to production levies. The production and surplus levies are collected from sugar producers by the relevant main customs offices.

The co-responsibility levy imposed on milk producers within the Community since 16 September 1977 was discontinued as of 1 April 1993. The imposition of this levy did not help to get rid of the 'milk lake' in the EU. An agreement was therefore reached to restrict the unlimited purchase guarantee to certain maximum amounts from the start of the 1984/1985 milk year, i.e., as of 1 April 1984. Each member state therefore has a specific total milk quota which is in turn divided among the milk producers. Any farmer exceeding the quota has to pay a milk levy (cf. Regulation (EC) No 1788/2003 and Regulation (EC) No 1234/2007 as of 1 April 2008). The local main customs offices are responsible for collecting the milk levy.

Tasks and structure of the revenue administration

Within the public sector, the revenue administration is the part responsible for assessing and collecting texts. In Germany, the revenue administration is divided among the Federation and the *Länder*. The structure is defined in the Revenue Administration Act.

Federal revenue administration (in the narrower sense)

Supreme federal authority

Federal Ministry of Finance

Higher federal authorities

Federal Central Tax Office (BZSt)	Federal Office for Central Services and Unresolved Property Issues (BADV)	Federal Equalisation of Burdens Office (BAA)
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Intermediate authorities

5 federal finance offices	Customs Criminological Office (ZKA)
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Local authorities

43 main customs offices	8 customs investigation offices
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Other agencies

Centre for Data Processing and Information Technology (ZIVIT)	Training and Knowledge Centre (BWZ)
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Wider portfolio

Tasks performed by legally independent authorities

Federal Financial Supervisory Authority (BaFin)	Financial Market Stabilisation Fund – Federal Agency for Financial Market Stabilisation	Federal Institute for Real Estate	
Federal Posts and Telecommunications Agency (BAnst PT)	Museum Foundation for Posts and Telecommunications (MusStiftPT)	Posts and Telecommunications Accident Insurance Fund (UKPT)	Federal Pension Service for Posts and Telecommunications

The federal revenue administration is largely responsible for customs, excise duties regulated by federal statute, and motor vehicle, insurance and fire protection tax; the other taxes are administered by the *Länder* acting as agents of the Federation (in the case of joint taxes) or in their own right (e.g., in the case of inheritance tax). Motor vehicle tax is special in that the *Länder* revenue authorities are administering it on behalf of the competent ministry, the Federal Ministry of Finance, in the period from 1 July 2009 to 30 June 2014. From 1 July 2014 onwards, motor vehicle tax will be administered by the customs administration.



Federal revenue administration

The Federal Ministry of Finance is the highest authority within the federal revenue administration. Next in the chain are various higher federal authorities (such as the Federal Central Tax Office or the Federal Office for Central Services and Unresolved Property Issues), which perform functions that fall within the jurisdiction of the Federation. In the intermediate band are the federal finance offices and the Customs Criminological Office. At the local level are the main customs offices (including the customs offices) and the customs investigation offices.

The main customs offices administer customs duties, federally regulated excise duties including import VAT, beer duty (the revenue of which accrues to the *Länder*) and levies required by the EU. The main customs offices are further responsible for conducting customs controls of goods moving across the frontiers, monitoring foreign trade and payments, enforcing the Federation's monetary claims under public law, especially the claims of federal social security institutions (the health, pension, accident and unemployment insurance agencies), as well as countering illegal work and unlawful employment.

The federal revenue administration proper encompasses additional agencies such as the Centre for Data Processing and Information Technology. The wider portfolio includes all public-law corporations and agencies overseen by the Federal Ministry of Finance (e.g., the Federal Financial Supervisory Authority).

Länder revenue administration

The *Land* finance ministries are the highest authorities in the *Länder* revenue administration. Regional finance offices/*Land* agencies make up the intermediate level. At the local level are the tax offices.

The finance ministries head the respective revenue administrations of the *Länder*.

The intermediate authorities support and have oversight over the tax offices. At the same time they serve as the link between the respective finance ministries and tax offices. Not all *Länder* have established intermediate authorities.

The tax offices are local *Land* authorities and generally administer on behalf of the Federation the taxes on income, property and transactions accruing wholly or partly to the Federation, as well as the taxes accruing to the *Länder* and certain municipal taxes unless the *Länder* have tasked municipalities with administering the latter. In this context one of the tax offices' tasks is to determine assessed values for real property in Germany. A number of taxes, e.g., real property tax, are calculated using these values. In addition to this, the tax offices are responsible for granting premiums under the Housing Construction Premium Act, for the implementation of the Capital Formation Act, and for granting allowances under the Investment Grants Act Law and the Berlin Promotion Act (with regard to standing cases).

Classification of taxes

According to assignment of revenue

- Taxes accruing to the Federation
- Taxes accruing to the *Länder* Joint (shared by Federation and *Länder*)
- Municipal taxes
- Church taxes

Taxes on income, property and transactions

Taxes on income and property:

- Income:
 - Income tax (including wages and withholding tax on income from capital)
 - Corporation tax
 - Solidarity surcharge
 - Trade tax
 - Church tax (in part)
- Property:
 - Inheritance tax
 - Real property tax
 - Church tax (in part)

Transactions taxes:

- VAT (excluding import VAT)
- Real property transfer tax
- Motor vehicle tax
- Aviation tax
- Betting and lottery tax
- Gaming casinos levy
- Insurance tax
- Fire protection tax

Customs and excise duties

Customs duties:

on imports and exports

Excise duties:

Alcopops duty

Beer duty

Coffee duty

Electricity duty

Energy duty

Intermediate products duty

Nuclear fuel duty

Sparkling wine duty

Spirits duty

Tobacco duty

On imports:

Import VAT

Other classification methods

Direct taxes/indirect taxes

examples: wages tax/tobacco duty

Personal taxes/impersonal taxes

examples: income tax/real property tax

Taxes based on profits/taxes

chargeable as expenses

examples: income tax/trade tax

General-purposes taxes/single-

purpose taxes

examples: income tax/mineral oil duty (in part)

Recurrent/non-recurrent taxes

examples: income tax/real property transfer tax

Assessed taxes/taxes

automatically due

examples: income tax/insurance tax

Interdependent taxes/stand-alone taxes

examples: trade tax/motor vehicle tax

Tax competence at a glance

There is jurisdiction for three areas: tax legislation, revenue assignment, and tax administration.

Type of tax	Who legislates	Who gets the revenue**	Who administers the tax
1. Agricultural levies	EU/Federation	EU	Federation (Customs)
2. Alcopops duty	Federation	Federation	Federation (Customs)
3. Aviation tax	Federation	Federation	Federation (Customs)
4. Beer duty	Federation	<i>Länder</i>	Federation (Customs)
5. Betting and lottery tax	Federation	<i>Länder</i>	<i>Länder</i>
6. Beverage duty	Federation	Municipalities	Municipalities
7. Church tax	<i>Länder</i>	Churches	<i>Länder</i> /churches
8. Coffee duty	Federation	Federation	Federation (Customs)
9. Corporation tax	Federation	Federation/ <i>Länder</i>	<i>Länder</i> *
10. Customs duties	EU/Federation	EU	Federation (Customs)
11. Dog tax	<i>Länder</i>	Municipalities	Municipalities
12. Electricity duty	Federation	Federation	Federation (Customs)
13. Energy duty	Federation	Federation	Federation (Customs)
14. Entertainment tax	<i>Länder</i>	Municipalities	Municipalities
15. Export levies	EU/Federation	EU	Federation (Customs)
16. Fire protection tax	Federation	<i>Länder</i>	Federation
17. Gaming casinos levy	Federation/ <i>Länder</i>	<i>Länder</i>	<i>Länder</i>
18. Hunting and fishing tax	<i>Länder</i>	Districts/municipalities	Districts/municipalities
19. Import VAT	Federation	Federation/ <i>Länder</i>	Federation (Customs)
20. Income tax	Federation	Federation/ <i>Länder</i> (incl. municipalities' share)	<i>Länder</i> *
21. Inheritance and gift tax	Federation	<i>Länder</i>	<i>Länder</i>
22. Insurance tax	Federation	Federation	Federation
23. Intermediate products duty	Federation	Federation	Federation
24. Licensing tax	<i>Länder</i>	Districts/municipalities	Districts/municipalities
25. Milk super-levy	EU/Federation	EU	Federation (Customs)
26. Motor vehicle tax	Federation	Federation	Federation****
27. Nuclear fuel duty	Federation	Federation	Federation (Customs)
28. Real property tax	Federation	Municipalities	<i>Länder</i> /municipalities
29. Real property transfer tax	Federation***	<i>Länder</i>	<i>Länder</i>
30. Secondary residence tax	<i>Länder</i>	Municipalities	Municipalities
31. Solidarity surcharge	Federation	Federation	<i>Länder</i> *
32. Sparkling wine duty	Federation	Federation	Federation (Customs)
33. Spirits duty	Federation	Federation	Federation (Customs)
34. Sugar and production levy	EU/Federation	EU	Federation (Customs)
35. Tobacco duty	Federation	Federation	Federation (Customs)
36. Trade tax	Federation	Municipalities (incl. apportionment for Federation and <i>Länder</i>)	<i>Länder</i> /municipalities

Type of tax	Who legislates	Who gets the revenue**	Who administers the tax
37. VAT	Federation	Federation/Länder	Länder*
38. Wages tax	Federation	Federation/Länder (incl. municipalities' share)	Länder*
39. Withholding tax on income from capital	Federation	Federation/Länder	Länder*
40. Withholding taxes on the income of non-residents	Federation	Federation/Länder	Länder*

Legislative powers

Article 105 of the Basic Law sets out the scope available to the Federation and the *Länder* to introduce or to abolish taxes. Whereas the Federation has exclusive power to legislate on customs duties and the spirits monopoly, the Basic Law also assigns concurrent power to legislate to both the Federation and the *Länder*. In the case of concurrent power to legislate, the Federation takes precedence if it is entitled to all or part of the tax revenue or if there is a need for regulation by federal law. The *Länder* have power to legislate if, e.g., the Federation has not exercised its legislative powers.

Assignment of revenue

Article 106 of the Basic Law governs the assignment of revenue to the Federation, the *Länder* and the municipalities. There are taxes whose revenue accrues exclusively to the Federation, *Länder* or municipalities and there are joint taxes whose revenue is divided between the three levels of government in accordance with specific formulas.

Administrative powers

Article 108 of the Basic Law stipulates which levels of government (the federal revenue authorities, the *Land* revenue authorities or the municipalities) are responsible for administering the individual taxes.

* On behalf of the Federation

** Municipalities/associations of municipalities may be assigned a share of *Land* taxes by means of *Land* legislation (cf., the second sentence of paragraph (7) of Article 106 of the Basic Law)

*** *Länder* have the empower to determine the tax rate for real property transfer tax (cf., the second sentence of paragraph (2a) of Article 105 of the Basic Law)

**** Until 30 June 2014 the *Land* revenue authorities were officially delegated powers to administer motor vehicle tax for the Federation (cf., section 18a subsection (1) of the Revenue Administration Act)

A

Taxation A to Z

Alcopops duty

As defined in the Alcopops Duty Act, alcopops are alcoholic sweetened beverages (including frozen beverages) that are (i) produced by mixing soft drinks or fermented beverages with products liable for spirits duty, (ii) have an alcoholic strength by volume of more than 1.2% and less than 10% and (iii) mixed ready to drink and bottled in sealed, ready-for-sale containers.

If the duty originates from the withdrawal of alcopops from a tax warehouse or from the consumption of alcopops therein, liability attaches to the tax warehouse keeper, regardless of whether the duty originated as a result of actions by the warehouse keeper himself or whether it originated without his knowledge or even against his will (e.g., due to unlawful withdrawal such as theft, in which case additional persons would become liable for duty). In this case duty attaches to other persons, namely the person who unlawfully withdrew the alcopops and any persons participating in such unlawful withdrawal.

If alcopops are produced without the necessary permission of the main customs office, the producer and all persons involved in the production are liable for duty.

If irregularities in the movement of alcopops occur while a duty suspension arrangement is in place, liability for duty attaches to the tax warehouse keeper as consigner, the registered consigner, and any other persons involved in such irregularities.

Alcopops duty, which is levied alongside spirits duty, is €5,550 per hectolitre of pure alcohol at 20°C. That would be approximately 84 cents in the case of a 0.275l bottle with an alcoholic strength by volume of 5.5%.

What is the tax payable on?

Who is liable for duty?

How much is the duty?

Alcopops duty was introduced in Germany by the Alcopops Duty Act that was contained in legislation of 23 July 2004 to improve the protection of young people against the dangers of alcohol and tobacco consumption (Federal Law Gazette. I, p. 1857).

The duty is administered by the customs authorities, and the revenue accrues to the Federation.

Aviation tax

Aviation tax is a transactions tax regulated by federal statute. It is imposed on legal transactions enabling passengers to depart to a destination from an airport in Germany by means of aeroplane or helicopter operated by an airline. Examples of legal transactions entitling an air passenger to departure include transport contracts in the form of the purchase of tickets, the booking of package holidays involving several related contracts, flights earned through reward schemes, and gifts of flights. The tax originates when the passenger departs on a flight from a German airport. No tax is imposed on connecting departures from Germany in the case of transit flights, or on departures of internal flights connecting from an initial internal flight, provided the planned stop-over at the German airport does not exceed a certain time limit.

Liability for the tax attaches to the airline responsible for the departure from a German airport.

Any airline that does not have a registered office in Germany or in another EU member state must nominate a tax representative to assume its rights and obligations as regards taxation under the Aviation Tax Act. Liability for tax also attaches to this tax representative.

Certain legal acts are exempted from tax. These include:

- departures of passengers under two years of age who are not allotted a seat of their own
- departures of passengers by aeroplane or helicopter if the flight serves exclusively military or other sovereign purposes
- renewed departures of air passengers who have returned to the German place of departure due to an aborted flight

What is the legal basis?

Who collects the duty?

What is the tax payable on?

Who is liable for tax?

A

- departures of air passengers to and from German islands not connected to the mainland by a road or rail link that is independent of the tide, as long as the air passenger's main place of residence is on the island or the flight serves the purposes of (i) providing medical care or (ii) exercising public authority
- departures of passengers by aeroplane or helicopter that serve exclusively medical purposes
- departures of passengers for sight-seeing flights in aeroplanes with a maximum take-off weight of 2,000kg (2,500kg for helicopters)
- departures of flight crews

The person liable for tax must file a monthly self-assessed tax return. That person must submit the tax return by the 10th calendar day of the following month and pay the tax by the 20th calendar day of that month.

How much is the tax?

The tax payable is based on broadly defined categories of distance to the destination, and amounts to the following per departure from a German airport:

- €7.50 for destinations in EU member states, EU candidate countries, EFTA countries and third countries within the same distance
- €23.43 for destinations in countries not covered by the first distance category, up to a distance of 6,000km
- €42.18 for destinations at a distance of more than 6,000km

Departures from and to German, Danish and Dutch North Sea islands are subject to a reduced tax rate of €1.50, as long as such islands are not connected to the mainland by a road or rail link that is independent of the tide.

As revenue comes in from the aviation industry's trading in greenhouse gas emission certificates, the above tax rates will be reduced by a certain percentage each year; details of this are to be set out in an ordinance.

What is the legal basis?

The legal basis for imposing aviation tax is the Aviation Tax Act in the currently applicable version, as well as the ordinances issued for its implementation.

Aviation tax is collected by the Federal Customs Administration, and the revenue accrues to the Federation.

The Bundestag decided on 28 October 2010 to introduce an aviation tax as part of the legislation accompanying the 2011 budget. The background to this was the cabinet meeting held on 6-7 June 2010, where a decision was passed providing for the introduction of an aviation levy designed to generate revenue for the Federation of €1bn a year, as part of the government's budget consolidation strategy.

Beer duty

Duty is payable on products under heading 2203 of the Combined Nomenclature (for beer made from malt) and any product containing a mixture of beer and non-alcoholic beverages under CN heading 2206.

If the duty originates from the withdrawal of beer from a tax warehouse or from the consumption of beer therein, liability attaches to the tax warehouse keeper, regardless of whether the duty originated as a result of actions by the warehouse keeper himself or whether it originated without his knowledge or even against his will.

In addition, duty attaches to persons who unlawfully withdraw beer from a tax warehouse (e.g., by theft), persons on whose behalf such products were unlawfully withdrawn, and persons who participate in such unlawful withdrawals.

However, if beer is produced without the necessary permission from the main customs office, the duty originates upon production. In this case, the producer and all persons involved in the production process are liable for duty.

If beer is put into free circulation by removing it from a duty suspension arrangement for the purpose of entering the commercial operations of a registered consignee's firm, the registered consignee becomes liable for the duty.

If irregularities in the movement of beer occur while a duty suspension arrangement is in place, liability for duty attaches to the tax warehouse keeper as consigner or the registered consigner and, alongside them, any other persons involved in such irregularities.

Who collects the tax?

How did the tax develop?

What is the tax payable on?

Who is liable for duty?

B

Furthermore, liability for the duty attaches to the person withdrawing the beer from movement, the person on whose behalf the beer was withdrawn and any person who participated in the unlawful withdrawal and knew or ought reasonably to have known that the withdrawal was unlawful.

If beer is released from a tax warehouse to persons who do not possess valid authorisation to use the beer commercially and free of duty, both the tax warehouse keeper as well as, upon taking possession, any such unauthorised persons are liable for duty.

The amount of the duty depends on the beer's original gravity. It is measured in degrees Plato. The standard rate per hectolitre is €0.787 per degree Plato. One hectolitre of beer with an original gravity of 12 degrees Plato (i.e., beer of average strength) will carry duty of €9.44 (= 12 x €0.787). Breweries with a total annual production of less than 200,000 hectolitres may take advantage of reduced rates of duty. Such breweries must be legally and economically independent of any other brewery. The maximum reduction of 56% of the standard rate is afforded to breweries producing 5,000 hectolitres or less each year.

Exemption from duty

Beer is exempt from duty in certain cases, e.g.:

- when it is used either inside or outside a tax warehouse as a sample for analysis and testing that is required for operational reasons, or when it is withdrawn for inspections by the tax or trade authorities
- when it is used inside the tax warehouse to produce beverages that are not subject to beer duty
- when it is presented to the competent authorities for quality control purposes or withdrawn at the instigation of these authorities
- when it is destroyed under the supervision of the tax authorities
- when it is concessionary beer provided by breweries to their employees and workers free of charge

The legal basis for imposing beer duty is the Beer Duty Act of 15 July 2009 (Federal Law Gazette I, p. 1870).

How much is the duty?

What is the legal basis?

Beer duty is collected by the federal revenue authorities (specifically, the customs administration). The revenue accrues to the *Länder*.

Beer duty is one of the oldest levies on consumable goods. As early as the Middle Ages, beer duty was imposed in German towns under many different names (Bierungeld, Bierziese, Bierpfennig, Trankgeld, Schankaufschlag or Malzaufschlag) as a tax on trade, production, equipment or raw materials. From the 15th century onwards, it was taken over by the German princes and transformed into an important component of their systems of taxation (in Bavaria, for instance, by statutes dating from 1543, 1572 and 1751). The duty was placed on a sounder legal basis in the 19th century (in 1806 in Bavaria and 1819 in Prussia), and the Reich Constitution of 1871 subsequently assigned to the German Reich the legislative power over and the revenue from the North German brewing tax area. Bavaria, Baden and Württemberg retained their regional powers over the duty by paying compensation to the Reich until 1919 and then adopted the newly enacted Reich Beer Duty Act of 26 July 1918, thus securing for themselves a certain percentage of the revenue from the now standardised beer duty.

The Basic Law of 1949 gave beer duty special status among the excise duties (whose revenue generally accrues to the Federation) in that the revenue was assigned exclusively to the *Länder*, whereas the administration of the duty was assigned to the federal revenue authorities (specifically, the customs administration).

Betting and lottery tax

Betting tax is levied on horse race bets that use a totalisator (pari-mutuel betting) or are placed with a bookmaker. Lottery tax is chargeable on public lotteries and draws. Bets on sporting events (sports bets) are subject to tax if the betting system is organised in Germany or if the person placing the bet is a resident of Germany.

The legal basis for betting and lottery tax is the Betting and Lottery Act, together with the ordinances and implementing provisions enacted in connection with this legislation. The taxes are collected by the *Länder*, which also receive the revenue. Winnings derived from betting and gaming are not subject to income tax. Betting tax, lottery tax and tax on sports bets are administered by local tax offices. The

Who collects the duty?

How did the duty develop?

What is the tax payable on?

What is the legal basis?

B

amount of tax payable is determined by the tax office in a written notice of assessment to (i) the bookmaker or the operator of the totalisator, in the case of horse races, or (ii) the organisers of lotteries, draws or sports bets. Tax is payable on (i) in the case of horse races, the amount that a bettor or player stakes with a totalisator or bookmaker; (ii) in the case of sports bets, the nominal value of the betting slip or stake; or (iii) in the case of lotteries, the regular price of each separate ticket. Lottery tax is levied at a rate of $16\frac{2}{3}\%$ on the stake or ticket price; betting tax and tax on sports bets are imposed at a rate of 5% of the stake or nominal value of the betting slip. Foreign lottery tickets and betting vouchers are subject to tax when imported from abroad, at a rate of €0.25 for each euro of the regular price.

How did the tax develop?

There is evidence that lotteries in which lots were drawn to win silver utensils and other non-monetary prizes, and which served to finance public expenditures in emergencies, were held as early as 1470 in Augsburg, 1477 in Erfurt, 1487 in Nuremberg, 1502 in Cologne and 1521 in Osnabrück. The concept of lotteries with regular draws came from Holland to Hamburg in 1610, and the numbers lottery came to Germany from Italy by way of Vienna in 1751 and Berlin in 1763. By the 18th century lotteries had become the prerogative of the territorial rulers and in some instances were exploited by the imposition of excise taxes, but in the 19th century the right to derive revenue from lotteries was assumed by the individual German states. The Reich Stamp Duty Act of 1881 introduced uniform taxation throughout the Reich, with lottery tickets stamped by the authorities. Betting slips for horse races were treated in the same way from 1891 onwards; where the tax was levied from totalisator betting operators (using machines to speed up the calculation of the odds for pari-mutuel bets) it was also known as totalisator tax. The form of taxation currently in operation was introduced in the Betting and Lottery Act of 1922. After the Second World War taxation was extended to include football betting, with Bavaria being the first of the German *Länder* to authorise businesses organising this form of betting in 1948, after which it spread throughout the Federal Republic of Germany. Since 2012, tax is also charged on (i) all sports bets organised in Germany that are not subject to betting tax and (ii) all sports bets organised abroad in which a bet is placed by a resident of Germany.

Beverage duty

Beverage duty is a local tax and essentially has the characteristics of a local excise duty. It is charged on the sale of specific alcoholic and non-alcoholic beverages. The *Länder* laws on municipal taxation form the legal basis for the imposition of this duty, along with the by-laws of the towns and municipalities concerned. Duty is payable by the person who sells the beverages. The question of whether and how particular towns and municipalities impose a beverage duty is best referred to their administrations or possibly to the revenue authorities at *Länder* level.

Duties on beverages are among the oldest excise duties, and have been levied in Germany since the 12th century under various names (such as Ungeld or Akzisen) initially in the form of local duties of the towns and cities and subsequently as *Länder* taxes or joint municipal and *Länder* duties. In the 19th century the states making up the customs union agreed that local duties of this kind were to be levied only on products destined for local consumption. The Reich constitution of 1871 limited the extent and amount of such duties imposed by the municipalities. On the basis of the Reich Financial Equalisation Act of 1923 the municipalities were for the first time empowered to levy a beverage duty intended to impose a standard charge on all local consumption of beer, wine, sparkling wine, potable spirits, mineral water etc. This arrangement was progressively pared down until in 1927 only the local beer duty remained, which was abolished in 1930 to make way for the Reich beer duty. Restricted in its most recent form to the local consumption of specific beverages, the duty may be traced to an emergency ordinance issued by the Reich President in 1930, the provisions of which were retained after 1945 as *Länder* law or were integrated in the new *Länder* legislation on municipal taxes (in part under the description of duties on the purveyance of drinks for consumption; an example of this was the Act passed by the *Land* of Rhineland-Palatinate on 30 May 1950).

What is the duty payable on?

How did the tax develop?

C

What is the tax payable on?

Who is liable for tax?

How much is the tax?

Church tax

The tax is on an individual's affiliation to a religious community that is a recognised public-law corporation.

Persons who are affiliated to or members of a community that imposes church tax are liable for the tax. Whether or not a person belongs to a church is decided under the internal law of the church.

A further criterion for deciding whether a person must pay church tax is that person's place of residence or habitual abode within the meaning of the Fiscal Code.

Church tax is a surcharge levied on top of > income tax, > wages tax and (as of 1 January 2009) > final withholding tax. The amount of this surcharge tax is determined by resolutions on church tax adopted by the religious communities entitled to impose the tax. It varies in the different *Länder*, ranging from 8% to 9%.

The tax base for church tax is the amount of > income tax, > withholding tax on income from capital or > wages tax an individual pays. Child tax-free allowances are taken into account even if they are not claimed as deductions from taxable income because it is more advantageous for the taxpayer to claim child benefit instead.

Besides > income tax (wages tax), most church tax acts also permit assessment on the basic tax amount calculated for the purposes of real property tax, although this tax base is now seldom used.

If married couples practise different faiths and if they file a joint tax return, the church tax is either (i) computed for each faith on half of the joint income tax or (ii) first computed as if both persons were members of the same faith, and then divided between the two religious communities. The second method of computation can be applied only when both communities' church tax rates are the same. If only the husband or the wife is a member of a church entitled to levy church tax, the tax is always computed on an individual basis. Tax payable by the spouse who is a church member will in this case be based on his or her share of the joint income tax or wages tax.

Some church tax acts include provisions under which

- a special church contribution is imposed if a church member earns no or only minimal income, while his or her spouse is the primary earner but does not belong to a church
- a minimum amount of church tax applies, which is collected if the church member does not have to pay any income tax or wages tax
- a legal minimum is stipulated for the amount of church tax payable

The church tax paid (minus any refunds) can be deducted as a special expense. However, this does not apply if it has been paid as a surcharge on either > withholding tax on income from capital or > final withholding tax. Nevertheless, the effect of the deduction of church tax as a special expense is taken into account when calculating the > withholding tax on income from capital, provided the two taxes are paid together.

Church tax is levied on the basis of church tax acts enacted by the legislative bodies of the *Länder*. The *Länder* authorities are also responsible for supervising the relevant church regulations.

Church tax is collected by the state, but the revenue accrues to the churches. The different churches that are entitled to impose the tax use the revenue to perform their functions.

As a rule, church tax is assessed and collected by tax offices in the course of income tax assessment. If the taxpayer is subject to wages tax, his or her employer computes the church tax at the rate valid for the employee's place of residence and remits it together with the wages tax to the tax office.

The payment of tithes, deriving from the biblical practice of sacred offerings and made compulsory by a synodal decree of 585, is held to be the oldest regular source of ecclesiastical revenue on German soil. The payment of ecclesiastical tithes was enforced by civil law throughout the empire by a statute of Charlemagne passed in 779, and in the following centuries became a substantial source of revenue for funding ecclesiastical functions. It took the form of a tenth of the produce from crops, vineyards and fruits, as well as from cattle and other animals. In the Middle Ages, and notably during the crusades, the popes also assumed the right to levy tax for ecclesiastical purposes. In Protestant

What is the legal basis?

Who collects the tax?

How did the tax develop?

C

areas, the reformation led to widespread secularisation of the sovereign rights and possessions of the churches, after which the Protestant churches were initially compelled to depend on voluntary contributions. In the course of general secularisation following the Final Recess of the Reich Deputation of 1803 the churches finally forfeited not only their possessions but the right to collect tithes as well, although the territorial rulers who benefited were at the same time placed under an obligation to render financial compensation to the churches. This obligation was gradually replaced at regional level by arrangements to introduce a modern form of church tax, beginning in Oldenburg in 1831 and followed by church tax acts in Hesse-Darmstadt in 1875, Prussia in 1875/1905, Württemberg in 1887/1906, Baden in 1888 and Bavaria in 1912. The right of religious communities that are public corporations to levy taxes in accordance with the provisions of *Länder* legislation was guaranteed throughout the territory of Germany for the first time by Article 137 paragraph (6) of the Weimar Constitution of 1919.

This right was reaffirmed by both sides in the Reich Concordat of 1933, in *Länder* Concordats (Bavaria, Baden) and in agreements between the state and the Protestant Church.

In 1949 the above-mentioned article from the Weimar Constitution was included in the Basic Law enacted in Bonn. The right of religious communities to levy taxes has also been expressly acknowledged in the constitutions of several *Länder* (Bavaria, Hesse, Rhineland-Palatinate, Saarland).

Coffee duty

The Coffee Duty Act uses the term 'coffee' to refer to both roasted and instant coffee.

- Roasted coffee may or may not be decaffeinated (in line with heading 0901 of the Combined Nomenclature).
- Instant coffee comprises extracts, essences and concentrates of coffee, which may or may not be decaffeinated (in line with sub-heading 2101 11 of the Combined Nomenclature). Where instant coffee is in the form of liquid extracts, essences or concentrates, the amount is specified as the dry weight.

What is the duty payable on?

The duty also applies to products containing between 10g and 900g of coffee per kg.

If the duty originates upon the withdrawal of coffee from a tax warehouse or the consumption of coffee therein, liability attaches to the tax warehouse keeper, regardless of whether the duty originated as a result of actions by the warehouse keeper himself or whether it originated without his knowledge or even against his will. In addition, duty attaches to persons who unlawfully withdraw coffee from a tax warehouse (e.g., by theft), persons on whose behalf such products were unlawfully withdrawn, and persons who participate in such unlawful withdrawals.

However, if coffee is produced without the necessary permission from the main customs office, the duty originates upon production. In this case, the producer and all persons involved in the production process are liable for duty.

If coffee or a product containing coffee is procured for commercial purposes from another member state, the duty originates upon receipt of the coffee or product in the fiscal territory. The duty is owed in this case by the person receiving the coffee. In the case of distance selling, where coffee or a product containing coffee is delivered from a source in another member state to a private individual in Germany, the duty originates upon delivery to that individual. The distance seller is required to appoint a representative within Germany's fiscal territory to ensure the consignments are processed for tax purposes. Liability for the duty attaches to that representative.

If the duty originates upon importation from a third country or territory (e.g., the Canary Islands), the person required under customs legislation to declare the coffee, or the person on whose behalf the coffee is declared, is liable to pay the duty. In the event of illicit importation, liability also attaches to the person involved in such importation.

The duty rates are as follows:

- €2.19 per kg for roasted coffee
- €4.78 per kg for instant coffee

Who is liable for duty?

How much is the duty?

C

Duty exemptions and relief

Some examples of when coffee can be exempted from duty are:

1. if the coffee is destroyed under the supervision of the tax authorities
2. if the coffee is taken as a sample for analysis and testing that is required for operational reasons, or for inspection by the tax or trade authorities
3. if the coffee is made when testing machines for the manufacture of coffee and is not provided to third parties for consumption
4. if the coffee is produced as a sample by raw-coffee traders to establish and verify the quality and properties of the raw coffee
5. if the coffee is produced by a household for its own private consumption

These exemptions from duty apply only to coffee, not products containing coffee.

The legal basis for imposing coffee duty is the Coffee Duty Act of 15 July 2009 (Federal Law Gazette I, p. 1870).

Coffee duty is collected by federal revenue authorities (specifically, the customs administration). The revenue accrues to the Federation.

As its consumption spread rapidly throughout 17th century Europe, coffee obtained significance as a source of state revenue. From the outset up to recent times, levies on coffee have taken the form of import duties. Under Frederick the Great a state coffee monopoly was established in Prussia in 1781 but was abandoned as unproductive in 1787. Coffee duties were among the most important of the revenue-raising duties imposed by the German states in the 19th century. They were substantially reduced in the German customs union from 1853 to 1860, and after having been assigned to the Reich as from 1871 were again appreciably raised from 1909 onwards in the course of the Reich finance reform.

The rates of duty on coffee were to be restructured after the currency reform of 1948, but this would have required a decision by the Allied Control Council, which at that time was no longer effectively

What is the legal basis?

Who collects the duty?

How did the duty develop?

operative. Instead, coffee duty was introduced as a new excise duty in the bizonal economic area by a law passed on 22 June 1948 (in 1949 in West Berlin as well); the Basic Law adopted in 1949 assigned the revenue to the Federation.

On completion of the single market and the abolition of controls at internal frontiers within the European Community as from 1 January 1993, the taxation of unprocessed coffee as it crossed the border as provided in the Coffee Duty Act was changed to taxation of the manufactured product, and the law was brought into line with the other excise duties that are harmonised within the Community. Coffee duty itself, however, is not one of the harmonised excise duties.

Corporation tax

Corporation tax is a special type of > income tax for legal entities (in particular incorporated businesses such as the AG, GmbH or European Company), other organised groupings of persons (such as associations) provided they are not partnerships as defined in the Income Tax Act, and conglomerations of assets (such as foundations). The basis of taxation, as with income tax, is the income earned during the calendar year. What constitutes income, and how it is to be determined, is regulated in accordance with the Income Tax Act. However, the Corporation Tax Act also sets out specific provisions that have to be observed in the process. Corporation tax, like income tax, is a direct tax. It is a tax imposed on the person of the taxpayer and is not deductible from income.

Corporation tax and > income tax exist side by side. Companies are liable for corporation tax on their profits. If profits are distributed to shareholders who are natural persons, the latter are liable for > income tax on the distribution.

In the same way as the Income Tax Act, the Corporation Tax Act distinguishes between limited and unlimited tax liability. Unlimited liability applies to corporations, associations of persons and conglomerations of assets the registered office or place of management of which is located in Germany. Unlimited liability for corporation tax extends to income from all sources worldwide.

What is the tax payable on?

Who is liable for tax?

C

Bodies incorporated under public law are liable for tax only to the extent that they carry on an enterprise of an industrial or commercial nature.

Among the entities subject to limited corporation tax liability are corporations, associations of persons and conglomerations of property the registered office and place of management of which are located outside Germany. They are liable for tax on their domestic income within the meaning of section 49 of the Income Tax Act.

How much is the tax?

Corporation tax is levied at the rate of 15%.

Profit distributions from one company to another are generally not included when calculating the income of the company that holds a stake in the other. This tax exemption for income from holdings prevents the taxation of profit distributions more than once in an ownership chain consisting of multiple companies. The intended outcome is that tax is imposed only (i) at the level of the corporation that generated the profit which is distributed and (ii) at the level of the individual who is the shareholder at the end of the ownership chain.

The only profit distributions that are not tax-exempt are those that a corporation receives from holdings that amount to less than 10% of a company's share capital at the beginning of a calendar year (free float).

If the profits are further distributed to an individual, a distinction is made based on whether the individual holds the shares in the corporation as business assets or as private assets.

At the level of a shareholder who holds shares as business assets, allowance is made for the corporation tax charge on distributed profits by including only 60% of the dividends in the shareholder's personal income tax base (this is known as the partial income system). When the shareholder is assessed for income tax, a credit is granted for the 25% > withholding tax on income from capital that has already been imposed.

Where a shareholder's stake in a corporation is held as part of his or her private assets and that shareholder receives a distribution of profits, the distribution is classified as income from capital assets and is subject to > income tax. This investment income has already undergone a deduction of > withholding tax on income from capital, at a rate of 25%.

This means that, as a rule, any income tax liability has already been discharged (this is the effect of the > final withholding tax).

The legal basis for corporation tax can be found in the current version of the Corporation Tax Act and the Corporation Tax Implementing Ordinance. Corporation tax law makes extensive use of the principles and provisions of income tax law, especially as regards the determination of profits and the assessment and payment of tax. Corporation tax guidelines have also been issued in the form of general administrative regulations to clarify uncertainties and points calling for interpretation.

Corporation tax is collected by the *Länder*. It is a joint tax, meaning that the Federation and *Länder* share the revenue (taking half each).

The taxation of incorporated companies has its origins in the period of rapid industrial expansion after 1871. It began in the German states with the inclusion of companies in the newly created system of income taxation, which up to the First World War resulted in broadly divergent treatment as regards types of company and tax rates. In 1913 stock corporations were subjected for the first time to an extraordinary Reich income tax, known as the defence contribution. The Reich also included legal entities in the taxation of war profits from 1916 to 1918. When the right to impose income tax was assigned to the Reich under Erzberger's financial reform in 1920 it was found expedient to introduce a separate, standardised Corporation Tax Act for legal entities. This was the first codification of its kind. The tax rate of 10% was subsequently raised several times and ultimately reached 65% in 1946. In 1953 the double charge on incorporated companies was lessened for the first time by reducing the rate of tax on distributions (split tax rate). From 1958 onwards it was lessened even further by changes in the tax rates.

The year 1977 saw the introduction of the crediting system, which allowed shareholders to claim the corporation tax paid on distributions as a credit towards their personal income tax. This provided a means of avoiding double taxation of distributed profits. The crediting system was replaced in 2001 by what was known as the half-income system, under which the shareholder only had to pay tax on half of the distribution.

What is the legal basis?

Who collects the tax?

How did the tax develop?

C

The 2008 reform of business taxation transformed the existing half-income system into the part-income system for businesses, while the > final withholding tax was introduced for private investors' income from capital.

Customs duties

What are the duties payable on?

Customs duties are levies imposed on imported goods in accordance with the Common Customs Tariff. Customs duties become payable not when dutiable goods are transported across the customs border but rather when they are released for free circulation (i.e., when they are imported in the commercial sense), which requires a declaration of release for free circulation.

Who is liable for customs duties?

In principle, customs declarations can be submitted by any person resident in the EU. The person who submits the declaration – which, where appropriate, may also be a declaration to place goods under another customs procedure such as inward processing, processing under customs control, customs transit or customs warehousing – is termed the declarant. The customs declaration must contain all the characteristics and details relevant for customs treatment. The customs office has the right, but not the obligation, to inspect the goods. If no inspection is conducted, the customs declaration is assumed to be accurate.

How much are the duties?

The duty rate applied to goods released for free circulation is the duty rate applicable under the Common Customs Tariff or other relevant regulations on the date the customs declaration is accepted. As a rule, the date of acceptance of the customs declaration also governs customs treatment in terms of the quantity, value and nature of the goods as well as the incurrence of customs debt. The customs duty to be paid is communicated to the declarant either verbally or in writing (via a customs notice).

The Basic Law grants the Federation exclusive authority to legislate on and to receive the revenue from customs duties. However, with the development of Community law, this authority has been transferred almost completely to the European Union. Germany's national customs law is essentially comprised of the Customs Administration Act and the Customs Ordinance.

What is the legal basis?

The legal basis for collecting customs duties is comprised of:

- a) Community customs law (in particular, the Council Regulation establishing the Community Customs Code, the Customs Code Implementing Provisions, and the Council Regulation on reliefs from customs duty)
- b) the Common Customs Tariff of the European Communities (Council Regulation (EEC) No 2658/87 of 23 July 1987, OJ L 284/2010) as supranational law, and the Customs Tariff Ordinance of 24 September 1986 (Federal Law Gazette I, p. 896) as national law governing the national part of the tariff
- c) the Customs Administration Act of 21 December 1992 (Federal Law Gazette I, p. 2125) with subsequent amendments, and the Customs Ordinance of 23 December 1993 implementing the Customs Administration Act (Federal Law Gazette I (1993), p. 2449; Federal Law Gazette I (1994), p. 162) with subsequent amendments

Completing the customs union of the European Union required not only the continuation of the already existing tariff union but also the comprehensive harmonisation of national customs provisions.

Since 1 January 1994, a Community Customs Code combining all of the basic provisions of customs law has been applied in its entirety in all member states. The Customs Code's provisions on exports have been in force since 1 January 1993.

The Customs Code contains the basic provisions of Community customs law. The Code is supplemented by comprehensive implementing provisions that were adopted by the European Commission on 2 July 1993. These provisions have been applied in conjunction with the Code since 1 January 1994. Together, the Code and the implementing provisions essentially comprise existing Community customs law.

Simplified procedures can make the release of goods for free circulation much less complicated and – depending on the type of procedure – less time-consuming. The main simplification involves declarants being able to submit customs declarations that do not contain all of the information that is otherwise required. The omitted information can then be submitted at a later date. Subject to appropriate authorisation, this information can be reported in a single supplementary customs declaration for goods imported during a specific time period and the import duties paid in a single payment.

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Simplified procedures include:

- the option of submitting to the customs office an incomplete declaration for the imported goods that does not contain all the required information and/or does not include all the required documentation
- the simplified declaration procedure, in which a simplified declaration (i.e., containing only essential information) for individual consignments may be submitted to the customs office
- the local clearance procedure, in which goods are entered into the records at the premises of the consignee and placed under a customs procedure, largely without any direct involvement on the part of the customs office

In 1951, as a party to the Geneva General Agreement on Tariffs and Trade (GATT) and the Brussels Conventions on the Valuation of Goods for Customs Purposes and on Nomenclature for the Classification of Goods in Customs Tariffs, the Federal Republic of Germany replaced the majority of specific duties (levied according to weight, volume or number) with ad valorem duties. The International Convention on the Harmonised Commodity Description and Coding System entered into force on 1 January 1988, replacing the Brussels Convention on Nomenclature and introducing an updated nomenclature. The Community's Combined Nomenclature (CN) was set up on the basis of this Harmonised System (cf. Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff). The customs union within the European Communities first took the form of a tariff union, which was created when the Common Customs Tariff between the six original member states of the EEC (Belgium, France, Germany, Italy, Luxembourg and the Netherlands) entered into force on 1 July 1968.

Since then,

- EU member states have applied a common customs tariff with respect to third countries, and
- custom duties have no longer been levied on the movement of goods between member states

On 1 July 1973, the customs union was extended to include Denmark, Ireland and the United Kingdom. Since then, the following countries have joined the customs union: Greece (on 1 January 1981);

Portugal and Spain (on 1 January 1986); Austria, Finland and Sweden (on 1 January 1995); Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia (on 1 May 2004); and Bulgaria and Romania (on 1 January 2007).

Since 1 July 1977, customs duties on nearly all industrial goods have been abolished in trade with the EFTA countries – i.e., Iceland, Norway and Switzerland (including Liechtenstein). Furthermore, the European Communities have concluded agreements containing extensive tariff concessions with nearly all of the countries bordering the Mediterranean Sea and with many African, Caribbean and Pacific states. The Communities also grant generalised tariff preferences to all developing countries.

Since 1975 (or 1988 in the case of goods covered by the Treaty establishing the European Coal and Steel Community), customs revenue has accrued to the EU. In 2009, this amounted to €3.6 billion. Customs duties are administered by federal customs authorities.

In their present form, customs duties serve primarily as an instrument to regulate the economy. Customs duties of a fiscal nature – i.e., those that aim solely to generate revenue for the state – no longer exist in Germany and the other member states of the EU.

How do customs administrations cooperate internationally?

Regulation (EC) No 515/97, last amended by Regulation (EC) No 766/2008, lays out the legal basis for fast and effective customs cooperation between the EU member states themselves and between the member states and the European Anti-Fraud Office (OLAF) for the purpose of ensuring the proper application of EU customs legislation. In addition, EU member states and the European Union have concluded international agreements with third countries to provide for mutual assistance in customs-related matters.

These laws and accords are supplemented by international agreements providing for cooperation in the investigation and prosecution of customs law violations, i.e., in the area of enforcement. This includes, for example, efforts to combat the smuggling of cigarettes and drugs, as customs administrations are tasked not only with collecting customs and excise duties but also with the surveillance of import and export prohibitions. To this end, the member states

Who collects
customs duties?

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adopted the Convention on Mutual Assistance and Cooperation between Customs Administrations (“Naples II”) as part of their measures to enhance police and judicial cooperation in criminal matters under Title VI of the Treaty on European Union (now Article 87 of the Treaty on the Functioning of the European Union). In order to compensate for the elimination of customs controls at national borders, this convention paved the way toward even more effective cooperation between customs authorities, for example in the area of cross-border observations (Federal Law Gazette 2002 II, p. 1387). In addition, the customs administrations of the member states are setting up a Customs Files Identification Database (FIDE) that enables them to engage in the systematic coordination of investigations against individuals and businesses.

Additional legislation to promote cooperation among customs authorities is in preparation. Despite certain remaining differences between the member states when it comes to legal provisions governing customs policies in the internal market, it is crucial for customs administrations to work together as if they were a single entity.

The World Customs Organization, which is headquartered in Brussels and encompasses 175 countries, works to simplify and harmonise customs procedures and to foster cooperation among customs administrations.

Customs duties are among the oldest of all levies, with roots in Greece (telos, meaning tax or toll, and teloneion, meaning tollhouse) and Rome (teloneum in Low Latin) before being introduced by the Germanic peoples. From the 4th century onwards, the term *mota* (meaning toll) spread from the Gothic kingdom on the Black Sea along the Danube River, eventually giving rise to the term *Maut* now mostly used in Austria and southern Germany. Nearly contemporaneously, from the 5th and 6th centuries onwards, the Latinised Greek term spread from the Frankish Kingdom into the central and northern Germanic regions, evolving from *toloneum* into *tol*, *tsol* and finally the modern German *Zoll*.

In medieval Germany, tolls or customs duties initially tended to take the form of fees for the use of roads, waterways, bridges, port facilities and markets or fees for the protection of commercial trade. The revenue from tolls initially accrued to the king as a royal

How have customs duties developed?

prerogative. However, from the 12th and 13th centuries onwards, these sovereign rights were increasingly awarded or leased out to territorial rulers and to cities that soon developed their own customs jurisdictions with territorial and municipal duties that evolved from use fees into tax-like fiscal duties involving tariff schedules for different categories of goods. In particular, customs duties along the Rhine River gained major significance: more than 60 customs stations were in operation here around the year 1400. In 1521 and 1524, unsuccessful attempts were made under Emperor Charles V to introduce a uniform border customs duty of 4% (in the form of an *ad valorem* duty on exports). In the 17th and 18th centuries, the concept of protective duties gained increasing prominence under the spread of mercantilism. This resulted in the imposition of high import duties to shield domestic production from foreign competition. In the early 19th century, the German states began to eliminate the imposition of internal duties and generally shifted toward a system of levying duties at their external borders. However, this new system greatly impeded trade between the German states as a result. The burdensome import, transit and export duties between the German states were gradually replaced with regional customs unions, which in turn paved the way toward the creation of the German Customs Union in 1834 and the imposition of common external tariffs. The Customs Union Act (*Vereinszollgesetz*) of 1869 was transformed into Reich law in 1871 when the authority to legislate on customs duties and collect the revenue was transferred to the German Reich. Starting in 1879, customs policy under Bismarck returned to an emphasis on protective duties, particularly against English goods, and to this day customs duties have continued to serve as an instrument for attaining trade policy objectives. In 1919, the authority to administer customs duties – which had been retained by the German states – was transferred to the Reich as well. Following the Second World War, the Basic Law of 1949 assigned all jurisdiction over customs to the Federation.

D

What is the tax payable on?

How did the tax develop?

Dog tax

Dog tax is a local tax and is collected by the municipalities. It is linked to the keeping of dogs. Its primary objectives involve influencing behaviour in society; for example, it is intended to assist in controlling the number of dogs. The legal basis is provided by *Länder* dog tax laws or *Länder* laws on municipal taxation. These laws either oblige the municipalities to impose dog tax or entitle them to adopt appropriate tax by-laws. The question of whether and how particular towns and municipalities impose dog tax is best referred to their administrations or possibly to the revenue authorities at *Länder* level.

A tax known as Hundekorn, sometimes referred to as a Bede, is recorded for the first time around 1500 in eastern and central German sources and was levied in the form of dues of grain (rye, barley, oats). It was intended to replace the obligation of the peasants to provide dogs for the feudal lord's hunting. Baked into dog food and later referred to as Hundebrot, this levy was used (as stated for instance in the Hildesheim municipal accounts of 1658/59) "to sustain common municipal hunting rights". In the 19th century modern dog taxes were introduced in the German states mainly as a police measure, in part as a luxury tax (for instance in Prussia from 1810 to 1814 and from 1824 onwards), in part as a charge on use (for instance in Bavaria in 1876).

From the outset the municipalities generally had the right to impose the tax and to collect the revenue, though for a long time some states (such as Baden and Hesse-Darmstadt) still demanded a share. Dog tax was classified as a local levy under relevant regional laws at the time of the Weimar Republic. When the Basic Law was enacted in Bonn in 1949, the tax was placed within the category of taxes having a locally restricted effect (referred to as local excise taxes since the 1969 financial reform) and was treated as a purely municipal tax.

Electricity duty

Electricity duty is an > excise duty on electric current. The duty is regulated by federal statute and taxes the consumption of electricity within Germany's fiscal territory (i.e., the Federal Republic of Germany excluding the territory of Büsingen and the island of Heligoland). The duty originates when electricity is withdrawn from the supply grid in German fiscal territory.

As an excise duty, electricity duty is intended to be borne by the consumer. However, collecting the duty from the vast number of consumers is clearly impractical. Therefore, for reasons of administrative efficiency, electricity duty generally attaches to the supplier, who can then transfer the cost to consumers by including it in the price of electricity. Electricity duty law designates suppliers as those who provide electricity to others.

Autoproducers who generate electricity for their own use are also liable for duty. Duty is payable when electricity is withdrawn by the autoproducer for own use.

Finally, consumers themselves are liable for duty if they procure electricity from other countries or withdraw electricity unlawfully from the power grid.

The person liable for duty must file a self-assessed tax return and may generally opt to do so on a monthly or a yearly basis. For returns filed on a monthly basis, the duty for each calendar month must be declared by the 15th calendar day of the following month and paid by the 25th calendar day of that month. For returns filed on a yearly basis, monthly prepayments toward the expected duty liability must be made by the 25th calendar day of each following month. The duty liability for the entire year must be declared by 31 May of the following calendar year and paid, after deducting the monthly prepayments, by 25 June of that year.

The duty amounts to €20.50 per megawatt hour (2.05 cents per kilowatt hour). However, the Electricity Duty Act also provides for exemptions and reduced rates of duty in order to promote the use of environment-friendly energy sources and means of transport. The Act also provides relief from the duty to trade and industry in order to prevent German companies from being placed at a competitive disadvantage in relation to their foreign competitors.

What is the duty payable on?

Who is liable for duty?

How much is the duty?

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Exemptions from electricity duty

The following section describes certain categories of relief from electricity duty. The list is not exhaustive.

Electricity from renewable energy sources

Electricity generated exclusively from renewable energy sources and withdrawn from power grids or transmission lines fed exclusively by renewables is exempt from electricity duty. Renewable energy sources include wind power, solar energy, geothermal energy, landfill gas, sewage gas and biomass, as well as hydroelectric power from hydropower stations with a generator output of up to 10 megawatts.

Electricity generation

Electricity used for the purpose of generating electricity is also exempt. This applies to electricity consumed in the auxiliary installations of electricity generation units, especially for the purpose of treating water, supplying water for steam generators, supplying fresh air and fuel, and purifying flue gas; it also applies to the electricity needed by pumps to power storage facilities in pumped storage plants.

Small installations

Electricity generated by installations with a rated electrical output not exceeding two megawatts is not subject to electricity duty as long as the electricity is (i) drawn by the installation operator in the immediately vicinity of the installation and for the operator's own consumption or (ii) supplied by the party operating (or commissioning the operation of) the installation to final consumers in the immediate vicinity of the installation.

Trains and trolleybuses

Electricity used to operate trains and trolleybuses is dutiable at a rate of only €11.42 per megawatt hour. The aim here is to strengthen the competitive position of environment-friendly rail transport as well as the local public transport system.

Shore-side electricity supply

For environmental reasons, shore-side electricity supplied to watercraft for shipping (with the exception of private, non-commercial shipping) is taxed at only €0.50 per megawatt hour.

Tax relief for businesses in the manufacturing, agricultural and forestry industries

Under certain criteria, companies in the manufacturing, agricultural and forestry sectors whose annual electricity duty liability exceeds €1,000 receive retroactive tax relief in the amount of €5.13 per megawatt hour. Manufacturing companies subject to high electricity duty costs may also be entitled to an additional refund (called the Spitzenausgleich), which is calculated on the basis of (i) a company's electricity duty liability and (ii) the rate by which the employer's share of pension insurance contributions has been reduced. Starting in 2013, this refund is granted only if a company fulfils stringent criteria for improving energy efficiency. These include, in particular, the adoption and operation of energy or environmental management systems or, in the case of small and medium-sized businesses, the adoption and operation of alternative systems to improve energy efficiency.

Since 2006, additional tax relief measures have been introduced that allow certain energy-intensive processes in manufacturing to be fully exempt from electricity duty. The aim here is to safeguard the international competitiveness of German industry.

The statutory bases for imposing electricity duty are the Electricity Duty Act of 24 March 1999 (Federal Law Gazette I, p. 378) and the Electricity Duty Implementing Ordinance of 31 May 2000 (Federal Law Gazette I, p. 794), in their respective applicable versions.

Electricity duty is collected by the Federal Customs Administration, and the revenue accrues to the Federation.

Electricity duty was introduced on 1 April 1999 within the framework of Germany's ecological tax reform. Pursuant to follow-up legislation (the Act to Proceed with Ecological Tax Reform), the duty rate was raised progressively from €10.23 per megawatt hour in 2000 to €20.50 per megawatt hour from 1 January 2003 onwards. By introducing electricity duty and raising it in predictable steps, the

What is the legal basis?

Who collects the duty?

How did the duty develop?

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government sought to achieve a moderate increase in the price of energy, a scarce and finite good. The objective of this policy is to create incentives to reduce energy consumption and boost the demand for and development of energy-saving products and production processes. At the same time, the additional revenue derived from electricity duty gives the Federal Government fiscal leeway to reduce and stabilise statutory pension insurance contributions and thereby to reduce the cost of labour as a production factor.

Energy duty

Energy duty is an excise duty regulated by federal law. In general, energy duty is charged only on the consumption of energy products (especially mineral oils, natural gas and coal) for energy purposes. The consumption of energy products for non-energy purposes is exempt from duty. In addition, the Energy Duty Act contains a number of special rules providing tax relief for the use of energy products for energy purposes, with the aim of promoting environment-friendly energy sources and means of transport. The Act also provides tax benefits to trade and industry in order to prevent German companies from being placed at a competitive disadvantage in relation to their foreign competitors.

Only certain goods can be taxed as energy products. The Energy Duty Act refers to the Combined Nomenclature for a precise description and categorisation of these goods.

As an excise duty, energy duty is designed to be borne by the consumer. However, collecting the duty directly from the vast number of energy consumers would clearly be impractical. Because of these administrative considerations, it is collected higher up the delivery chain, from the producer or reseller, who then passes the cost on to the consumer via the price of the product. The persons liable are given ample time to realise the sales revenue they need in order to pay the duty.

Motor fuels make up the largest category of dutiable energy products and also yield the most revenue. For example, the duty rate on unleaded petrol with a sulphur content of 10mg/kg or less is €654.50 per 1,000 litres, and the duty rate on diesel fuel with a sulphur content of 10mg/kg or less is €470.40 per 1,000 litres.

What is the duty payable on?

Who is liable for duty?

How much is the duty?

Liquefied petroleum gases, such as propane and butane, as well as natural gas and other hydrocarbon gases are also subject to energy duty if used as motor fuels. In these cases, a reduced rate of duty applies until 31 December 2018. Until that date, automotive LPG (often referred to as autogas) will be taxed at a rate of €180.32 per 1,000kg and natural gas fuel at a rate of €13.90 per MWh. From 2019 onwards, these fuels will be taxed at the standard rates stipulated in the Energy Duty Act as follows: €409.00 per 1,000kg for automotive LPG and €13.90 per MWh for natural gas fuel. These rates from 2019 onwards are still well below the duty rates for petrol and diesel fuel.

The following rates of duty apply to heating fuels:

■ light heating oil	€61.35 per 1,000 litres
■ heavy fuel oil	€25.00 per 1,000kg
■ liquefied petroleum gas	€60.60 per 1,000kg
■ natural gas and other hydrocarbon gases	€5.50 per MWh
■ coal	€0.33 per GJ

Red dyestuff and a chemical marker are added to light heating oil to prevent its illegal use as fuel for diesel engines.

Relief from the duty

The following section describes certain categories of relief from energy duty. The list is not exhaustive.

Biofuels

Initially, biofuels were promoted exclusively on the basis of tax incentives. However, the introduction of the biofuel quota with effect from

1 January 2007 gave regulatory backing to the promotion of biofuel production. The quota stipulates that biofuels must account for a certain minimum proportion of the total amount of fuel (petrol, diesel and biofuel) that a petroleum company sells each year. Since this switch from tax incentives to quota-based requirements, tax relief is no longer provided for the share of biogenic materials contained in mixtures with fossil fuel (such as the ethanol blend E5 and B7 diesel). In contrast, tax

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incentives to promote pure biofuels (especially biodiesel and vegetable oil fuel) were not discontinued in a single, immediate step; instead, lawmakers opted for a step-by-step phase-out of tax relief for these energy sources. Accordingly, the possibility to obtain tax relief for pure biofuels largely ended on 31 December 2012. Currently, special tax provisions still apply to the ethanol content in E85 fuel, biomethane used as motor fuel, BTL (biomass to liquid) fuels, and cellulosic ethanol, which will be granted tax relief until the end of 2015.

Public transport

To enhance the competitiveness of public transport, a partial tax refund is granted for fuels used in public transport vehicles (road and rail).

Combined heat and power plants

Certain combined heat and power (CHP) plants benefit from reduced energy duty rates. In addition, high-efficiency CHP plants with a monthly or annual utilisation rate of at least 70% are fully exempt from energy duty during the depreciation period. CHP plants that do not qualify as high-efficiency units as well as fully depreciated plants receive an additional tax reduction if they achieve a monthly or annual utilisation rate of at least 70%.

Exemption for energy producers

No duty is charged on energy products consumed within an energy production plant for the purpose of enabling or assisting the production of motor fuels, heating fuels and certain other energy products. This exemption benefits energy production plants as consumers of energy.

Tax relief for businesses in the manufacturing, agricultural and forestry industries

To avoid endangering the international competitiveness of companies in the manufacturing, agricultural and forestry industries, tax relief on heating fuels (heating oil, natural gas and liquefied petroleum gas) has been granted to these businesses since the ecological tax reform was launched in April 1999. This tax relief amounts to around 25% of the full rates of duty on heating fuels and applies to duty paid in excess of €250 per calendar year. Manufacturing companies subject to high

energy duty costs may also be entitled to an additional refund (called the Spitzenausgleich), which is calculated on the basis of (i) a company's electricity duty liability and (ii) the rate by which the employer's share of pension insurance contributions has been reduced. Starting in 2013, this refund is granted only if a company fulfils stringent criteria for improving energy efficiency. These include, in particular, the adoption and operation of energy or environmental management systems or, in the case of small and medium-sized businesses, the adoption and operation of alternative systems to improve energy efficiency.

Since 2006, additional tax relief measures have been introduced that allow certain energy-intensive processes in the manufacturing sector to be fully exempt from energy duty. The aim here is to safeguard the international competitiveness of German industry.

Energy duty is imposed on the basis of the Energy Duty Act of 15 July 2006 (Federal Law Gazette I, p. 1534, Federal Law Gazette I (2008), p. 660, Federal Law Gazette I (2008), p. 1007), in the applicable version, as well as the statutory instruments issued to implement this Act.

Energy duty is collected by the Federal Customs Administration, and the revenue accrues to the Federation.

Petroleum gained increasing significance in the 19th century with the transition to modern deep-drilling systems and was first appropriated as a source of tax revenue in Germany from 1879 onwards, initially being subjected to the petroleum tax of the Reich. Efforts to set up a Reich petroleum monopoly subsequently failed. When during the Great Depression the customs duty on foreign oil had to be massively increased in 1930, mineral oil duty was introduced at the same time as an additional offsetting measure. Rates went up substantially for the first time in 1936, and the scope of the duty was extended to include diesel oil in 1939, certain petrochemical products in 1951 and heating and fuel oils in 1960. Whilst pre-war imports had consisted largely of refined mineral oil products, the bulk of post-war supply was made up of mineral oil products refined in Germany from domestic or imported crude oil. It is on account of this change in the structure of the German mineral oil industry and the increased financial needs resulting from burdens caused by the war that mineral oil duty was imposed as a pure revenue-raising duty from 1953 onwards, with rates applying to imported and domestic products alike.

What is the legal basis?

Who collects the duty?

How did the duty develop?

E

The imposition of duty on heating and fuel oil was introduced as a means of guiding the economy to achieve energy policy objectives. It was originally intended to help the German bituminous coal mining industry adapt to changes in the energy market and to contribute towards the development of new sources of energy.

The fifth and final stage of the ecological tax reform took effect on 1 January 2003. This continued the policy course of protecting the environment and safeguarding jobs which the Federal Government adopted with the first stage of the reform on 1 April 1999 (> electricity duty). The moderate addition to the cost of energy was intended to encourage the economical use of valuable resources and thereby to help protect the environment. At the same time, the additional revenue gives the Federal Government fiscal leeway to reduce and stabilise statutory pension insurance contributions and thereby to reduce the cost of labour as a production factor.

The Mineral Oil Duty Act was replaced in 2006 by the Energy Duty Act, which also governs the taxation of coal.

Entertainment tax

Entertainment tax is a > local tax. Tax liability attaches to forms of entertainment provided in cities and municipalities as specified in various laws; these forms of entertainment include dance and film events as well as the operation of gaming and amusement machines. Tax is payable by the organiser of the entertainment or by the owner or operator of gaming and amusement machines. The tax is either (i) based on the price and number of tickets issued or (ii) levied at flat rates determined according to typical characteristics such as the size of the event space or, in the case of gaming and amusement machines, the purchase price of such machines (rules generally stipulate a minimum amount per machine). Distinctions are also made (i) between machines that offer prizes and those that do not and (ii) according to the location of the machines (i.e., in amusement arcades or other premises).

The legal bases for entertainment tax include laws on municipal taxes and the entertainment tax acts of the respective *Länder*, relevant local by-laws, and in some cases specific statutes (e.g., acts stipulating gaming machine duties).

What is the tax payable on?

What are the legal bases?

How did the tax develop?

Entertainment taxes emerged in Germany specifically as a means of financing poor relief, the first instance being the introduction of levies on games of chance in medieval towns (> betting and lottery tax). In the 17th and 18th centuries, luxury taxes expanded to cover other public amusements. In 1794, Prussia adopted general state laws that granted municipalities the right to tax entertainment for the purpose of supporting poor relief. Poor laws in numerous cities and states included special provisions on the taxation of billiards, skittle alleys, balls, masquerades, spectacles, theatre performances, concerts and similar events; legislation to this effect was adopted in Hamburg in 1796, in Lübeck in 1810, in Bremen in 1814, in Saxony in 1840, and in Bavaria in 1869. Prussia's municipal tax act of 1893 stated expressly that "municipalities shall have the right to tax amusements, including musical and declamatory recitals, as well as performances by itinerant artists". Financial difficulties in the wake of the First World War compelled the Reich to require municipalities to collect entertainment tax as a means of safeguarding municipal financial resources. This requirement was enacted on the basis of the *Länder* Tax Act of 1920. The Reichsrat, as the representative body of the *Länder*, adopted uniform provisions for this purpose in 1921. Starting in the 1930s, the cinema tax (a subcategory of entertainment tax) gained increasing significance, but its role has declined considerably since the 1950s due to the advent of television and the large number of exemptions. More recently, the taxation of gaming and amusement machines has gained in importance; the aim here is to exert influence on the establishment and operation of amusement arcades for reasons of social and regulatory policy. Entertainment tax – and the taxation of gaming machines in particular – has been the subject of decisions by the Federal Constitutional Court in recent years (see file nos. 1 BvR 624/00, 1 BvL 8/05 and 1 BvR 2384/08).

Excise duties

Special excise duties are levied on excisable goods that enter commercial circulation and are used or consumed in German fiscal territory (i.e., the Federal Republic of Germany excluding the territory of Büsingen and the island of Heligoland). The items subject to tax are everyday consumables (e.g., energy products, electricity, tobacco products, etc.) that are designated more specifically in separate excise duty acts.

What are the duties payable on?

E

The excise duties comprise the following:

- Alcopops duty
- Beer duty
- Spirits duty
- Energy duty
- Coffee duty
- Nuclear fuel duty
- Sparkling wine duty
- Electricity duty
- Tobacco duty
- Intermediate products duty

As a rule, the tax burden for excise duties is to be borne by the consumer. However, for reasons of efficiency and practicality, and in order to curtail administrative costs, excise duties are collected from the producer or retailer. A key feature of excise duties is that the person or entity liable for duty has the option of passing the costs of the duty on to consumers.

The respective legal bases for excise duties are provided in the separate sections on each individual duty.

The Federation is responsible for collecting and administering non-local excise duties.

Final withholding tax

The system for taxing income from capital assets was reformed with effect from 1 January 2009 (via the introduction of the 2008 Business Tax Reform Act, cf. Federal Law Gazette I, p. 1912). The final withholding tax applies only to income generated by private assets.

This tax in particular covers individuals' investment income, e.g., dividends, interest, earnings from investment funds and futures as well as profits on the sale of securities, irrespective of how long they are held. Losses on capital assets and losses on securities may be offset under certain circumstances. Income-related expenses over and above

Who is liable for duty?

What are the legal bases?

Who collects the duties?

What is the tax payable on?

a saver's tax-free allowance cannot be taken into account for tax purposes. Foreign tax not subject to the right of reduction may be offset against tax.

Investment income from certified pension contracts (called Riester pensions) and certified basic pension agreements (called Rürup pensions) is not subject to tax in the initial saving phase. There is no final withholding tax on these contracts.

Deduction at source

As is the case for other investment income, the investment income generated by personal assets is subject to taxation at source by means of a withholding tax on income from capital. Personal income tax liability on this investment income is generally discharged upon the withholding of tax. Taxpayers do not need to state this investment income in their tax returns. For further information, see > withholding tax on income from capital.

Mandatory assessment

A tax assessment is required for private investment income that has not been subjected to withholding tax. A separate tax schedule applies to investment income generated by personal assets. A tax assessment is also required if no church tax was withheld during deduction at source.

Optional assessment

In certain cases, taxpayers may elect to have their personal investment income assessed for tax purposes. This may be the case, e.g., if the taxpayer's marginal tax rate is below the rate for taxation at source.

This optional assessment does not affect the tax exemption on investment income from private pension plans known as Riester and Rürup pensions during the saving phase.

As a rule, the tax rate for all personal investment income is 25% plus solidarity surcharge and (if applicable) church tax. If the paying agent withheld tax when disbursing the investment income, that tax is generally deemed to satisfy the private investor's tax liability.

Who is liable for tax?

How much is the tax?

F

What is the legal basis?

There is a need to distinguish between the collection of the tax (by withholding tax on income from capital) and the tax schedule:

The final withholding tax is not a tax in its own right but, similar to wages tax, is a special form of levying income tax. The basis for collection and the full discharge of tax liability for investment income generated by personal assets are governed by sections 43 ff. of the Income Tax Act.

The separate tax schedule for income from capital assets, the assessment of tax and the crediting of the remaining foreign tax are set out in section 32d of the Income Tax Act.

Who collects the tax?

The final withholding tax is retained in particular by the credit institutions or companies distributing the profits (i.e., the parties liable to pay investment income). They are required to remit the final withholding tax to the tax office responsible for assessing the income of the paying agent/party liable to pay investment income.

If income tax is to be assessed, the investor's local tax office is responsible.

How did the tax develop?

Up until 31 December 2008, the domestic paying agents and parties liable to pay investment income retained the withholding tax on income from capital as an advance payment on the income tax that was assessable by the tax office and owed by the beneficiary of the investment income. It was a requirement for the investment income to be entered in the taxpayer's income tax return, and the investment income was taxed at the taxpayer's personal rate.

The introduction of the final withholding tax with effect from 1 January 2009 (through the 2008 Business Tax Reform Act, cf. Federal Law Gazette I, p. 1912) revised and simplified the taxation of personal investment income for residents of Germany. Personal investment income such as dividends, interest and capital gains on securities are treated in the same manner for tax purposes. To this end, capital gains from securities were included in the legal provision on income derived from capital assets (section 20 subsection (2) of the Income Tax Act). This means there is no longer a time limit during which the return on the sale or purchase of securities has to be taxed. Church tax is taken into account by the paying agent (if the taxpayer has requested that this be done).

Thus there is generally no obligation to state personal investment income in the tax return. This is accompanied by the introduction of a separate tax rate for income from capital assets. The outcome is that all personal investment income is taxed uniformly at 25% on the return plus solidarity surcharge and (if applicable) church tax.

Fire protection tax

Fire protection tax is payable on the collection of premiums for fire insurance, including insurance against business interruptions due to fire, residential building insurance and home contents insurance. It applies to insurance for property located in Germany.

Liability attaches to the insurer, who must compute the fire protection tax (on a self-assessed tax return) and pay it to the Federal Central Tax Office.

Fire protection tax is charged on a proportion of the insurance premium (> insurance tax). As of 1 July 2010, the applicable tax rates and proportions serving as the tax base are as follows:

- a 22% rate in the case of fire insurance including insurance against business interruptions due to fire, applied to 40% of the insurance premium
- a 19% rate in the case of insurance on residential buildings, applied to 14% of the total insurance premium
- a 19% rate in the case of home contents insurance, applied to 15% of the total insurance premium

The legal basis for fire protection tax is the Fire Protection Tax Act.

The revenue from fire insurance tax accrues to the *Länder*. The Federal Central Tax Office has collected the tax since 1 July 2010.

The modern form of fire protection tax originates from the 1931 Reich Act on the Supervision of Private Insurers and Building Societies, which empowered the *Länder* “to collect levies from the fire insurance undertakings for public-benefit purposes, especially to promote fire-fighting”. The levies subsequently introduced in 18 *Länder* laws, which in 1931 generated revenue of RM 21m, were standardised throughout the Reich by the Fire Protection Tax Act of 1939 in the course of a comprehensive reorganisation of fire-fighting facilities.

How much is the tax?

What is the tax payable on?

Who is liable for tax?

What is the legal basis?

Who collects the tax?

How did the tax develop?

G

The Basic Law enacted in Bonn in 1949 originally gave the *Länder* legislative authority over fire protection tax. However, the financial reform of 1969 made the tax subject to concurrent legislation by the Federation from 1970 onwards. Fire protection tax has been administered by the Federation since 1 July 2010, on the basis of the Concomitant Act on the Second Federalism Reform passed in 2009.

Gaming casinos levy

This is a special type of tax that gaming casino operators must pay in lieu of separate taxes that would otherwise be payable. The gaming casinos levy has its roots in Reich legislation from 1933 and 1938, especially the Public Gaming Casinos Ordinance of 27 July 1938 (Reich Law Gazette I, p. 955). Today the gaming casinos levy is governed by *Länder* legislation on gaming casinos. The levy is payable by the operators of public gaming casinos and is remitted to the cash offices designated by the competent *Länder* authorities. The revenue accrues to the *Länder*. Additional gaming-related levies are also charged, including a supplemental levy (when gaming revenues exceed a designated level) and a tronc levy. The fact that gambling operations are under constant tax surveillance makes for an uncomplicated collection procedure. The levy is computed on the basis of daily gross receipts, i.e., the difference between wagers and winnings. Among the individual *Länder*, the levy rate ranges between 20%–80% of gross receipts and is usually linked to the amount of gross receipts.

In Germany, the practice of deriving state revenue from gambling dates back to the flourishing of medieval cities. For example, a casino for dice games existed in Frankfurt am Main from 1390–1463 whose revenue flowed directly into municipal coffers. In Nuremberg, a purported 3,600 “gaming boards” were subject to taxation. Schwäbisch Hall’s municipal accounts show that “gaming levies” accounted for about 10% of the town’s revenue in 1422–23. In 1873, the German Reich banned gaming casinos on its territory. Then in 1933, a Reich statute was enacted that permitted the operation of casinos under certain conditions. Taxation was conducted in a very simple manner through the introduction of a flat-rate charge that was imposed on gaming casinos in lieu of income, property and lottery taxes.

What is the levy payable on?

How did the levy develop?

Hunting and fishing tax

Hunting and fishing tax is a local tax. It is assessed once a year on the annual value of hunting privileges or, if such privileges are leased, on the price to be paid by the lessee. Fishing tax is assessed on the number of fishing districts. The legal basis is to be found in *Länder* laws on municipal taxation, as well as by-laws passed by the municipalities. However, it is generally districts (and towns administered as independent districts) that collect the tax. These also receive the revenue. The standard by-laws specify that the taxpayer is the person who holds the hunting rights. The question of whether and how particular towns and municipalities impose a hunting and fishing tax is best referred to their administrations or possibly to the revenue authorities at *Länder* level.

What is the tax payable on?

How did the tax develop?

A primitive forerunner of hunting and fishing tax arguably existed in medieval times, in the form of levies in kind, which hunters and fishers had to pay, partly in the form of livestock and animal-product tithes, to the church and the feudal lord. This subsequently developed into a royal prerogative and source of revenue for territorial rulers, who occasionally permitted the municipalities to take a share. In the 19th century the states frequently gave the municipalities the right to impose a game tax determined by the value of each piece of game killed (this was authorised for towns in Prussia by Most Sovereign Decree of 24 April 1848, renewed by section 14 of the 1893 Act on Municipal Levies, and remained valid until 1910). In the course of the reorganisation of municipal levies and financial equalisation law after the First World War, hunting tax was established in its present form. It was generally reserved for the benefit of rural districts. At the same time, taxes on specific forms of hunting, such as the tax on ferrets, were abolished. Standard tax by-laws were adopted for Prussia in 1922 and for the entire territory of the Reich in 1937. The tax liability was extended to include recreational fishing in some *Länder*. The tax was incorporated in the new laws on municipal taxation after 1945.

Import VAT

Import VAT is an > excise duty within the meaning of the Fiscal Code and an import duty under customs law. It is imposed on the importation of goods into Germany's domestic territory and the Austrian territories of Jungholz and Mittelberg. Under the VAT Act,

What is the duty payable on?

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“domestic territory” means the territory of the Federal Republic of Germany except the territory of Büsingen, the island of Heligoland and the free ports (cf. section 1 subsection (2) of the VAT Act). Liability for import VAT attaches to the actual frontier crossing of each article, regardless of whether it is being imported against payment or free of charge. Under the VAT Act, “import” means the movement of articles into the territory in which the tax is imposed – on the assumption that the articles are subject to taxation there, i.e., they are not covered by a duty suspension arrangement (including customs warehousing and transit procedures). The term ‘article’ primarily means goods as defined under customs law, i.e., all movable objects.

Who is liable for duty?

Application of the duty on imports is intended to ensure that goods imported from third countries (generally exempt from VAT in the exporting state) are subject to the same VAT as similar domestic goods. The purpose is to create a level playing field for goods produced in Germany and products imported from third countries. Unlike customs duties, which are intended to contribute towards the achievement of economic objectives, import VAT serves only to effect the equalisation of VAT burdens at the frontier. Under the value-added tax system, which levies VAT on domestic goods and imports, it would in theory be sufficient to limit the equalisation of VAT tax burdens at the frontier to non-business imports because it is, after all, the end user who is supposed to bear the full burden of VAT. However, since VAT is payable at every successive stage in the course of trade, all imports are subject to import VAT as well, regardless of whether the goods are imported by a business or a private individual. If goods are imported by or on behalf of a business, it can generally deduct the import VAT paid on such goods as an input tax against its VAT liability; this means the import VAT is merely a transitory item in the accounts.

What is the legal basis?

The customs value of the imported article is used to determine the basis for levying import VAT (cf. section 1 subsection (1) of the VAT Act). Any other import duties that are levied on imported goods in conjunction with import VAT (customs duty, other excise duties) and the cost of transport to the first inland destination (i.e., the place at which the transport of such goods across the frontier is completed) are the principal elements that must be added to the customs value.

The tax rate for the importation of goods is the same as that for turnover within the domestic territory (cf. section 12 subsections (1) and (2) number 1 of the VAT Act). The rate is 19% of the basis for

assessment, but is reduced to 7% for goods listed in Annex 2 to the VAT Act. With a few exceptions, the regulations on customs duties apply to import VAT with the necessary changes (cf. section 21 subsection (2) of the VAT Act). This applies in particular to the registration of imported goods, their treatment under import VAT legislation and the imposition of tax on them; it also applies to imports under a simplified customs procedure. In connection with the importation of goods, numerous relief facilities have been allowed for businesses that are entitled to deduct input tax.

The legal basis for imposition of import VAT is provided in the VAT Act as published on 21 February 2005 (Federal Law Gazette I, p. 386), last amended by Article 10 of the Act of 26 June 2013 (Federal Law Gazette I, p. 1809, Federal Law Gazette II, p. 1120).

Import VAT is collected by the Federal Customs Administration. The revenue accrues jointly to the Federation and the *Länder*.

The forerunner to import VAT was the VAT equalisation tax, which applied until 1967. It was introduced in 1932 when the standard VAT rate was raised from 0.85% to 2% in order to offset the charge already borne by German manufacturers in relation to the importation of foreign products. At that time, the standard rate of 2% for domestic turnover was originally applied without taking account of the multiple charges imposed on domestic products by the multi-stage tax then in force. When the standard rate was raised to 4% in 1951, special equalising tax rates were introduced for various goods which ranged from 1% to 10%. Tax on the importation of articles in accordance with the VAT system has been in effect since 1 January 1968. In goods traffic between EU member states, import VAT was replaced by VAT on intra-Community acquisitions as from 1 January 1993.

Income tax

Income tax is imposed on the income of individuals and partners in a partnership. While worldwide income is subject to taxation in the case of unlimited tax liability (see the section entitled “Who pays the tax?” below), limited tax liability means that taxation is based solely on domestic-source income within the meaning of section 49 of the Income Tax Act. Accordingly, a range of personal and family-related tax benefits (such as income splitting for spouses, the basic personal allowance, and relief for certain special expenses or extraordinary

What is the legal basis?

Who collects the duty?

How did the duty develop?

What is the tax payable on?

I

financial burdens) cannot be taken into account, or may only be taken into account to a limited extent, when assessing a person for the purposes of limited income tax liability.

On certain types of income the tax is generally collected by being withheld from earnings (e.g., > wages tax, > withholding tax on income from capital, > final withholding tax, > withholding taxes on the income of non-residents).

Income from the following sources is subject to income tax:

- agriculture and forestry
- commercial business activity
- self-employment
- employment
- capital assets
- renting and leasing
- other income designated in section 22 of the Income Tax Act (e.g., income from statutory pensions or income from private sales transactions)

If a capital increase cannot be attributed to any of these types of income (e.g., because the increase was incurred through a gift, the sale of objects of everyday use, or a lottery win), it is not liable for income tax. Expenses related to such income cannot, however, be taken into account for tax purposes.

In the case of agriculture and forestry, commercial business activity and self-employment, the profit is classed as the income. Profits are computed on an accrual basis, as the excess of business receipts over business expenditure or, in the case of smaller agricultural undertakings, on the basis of average rates (cf. section 13a of the Income Tax Act). In accordance with section 4 subsection (4) of the Income Tax Act, business expenditure is such expenditure as is occasioned by the operation of a business or the performance of an activity on a self-employed basis. To determine earnings in the case of other sources of income, the expenses incurred to realise, protect or preserve gross income (income-related expenses) are deducted from the total receipts for a particular source of income.

Normal living expenses (which invariably include, e.g., expenditure on food, clothing and housing) are not deductible as business or income-related expenses. This also applies to expenses occasioned by the business or social position of the taxpayer, even if such expenses are incurred in the promotion of his or her business or professional career.

Total income is calculated as the balance of profits/surpluses and losses from the different sources of earnings. Losses from one source of earnings may be offset against earnings from the same category or from a different source. Special rules restricting offsetting and loss deduction apply.

If losses cannot be offset during a tax assessment period (generally the calendar year), the loss is carried forward or back.

From the resulting total income, taxpayers over the age of 64 may, under certain conditions, deduct an amount of up to €1,900 annually as old-age relief. Taxpayers who are single and have children may deduct €1,308 as relief for single parents.

The relief for single parents was introduced with effect from the start of the 2004 calendar year. To be eligible for the relief, the taxpayer's household must include at least one child who is registered as living there, and the taxpayer must be entitled to claim tax-free child allowance or child benefit for that child. The relief is reduced by one twelfth for each month in which these conditions are not met.

The figure left over is referred to as adjusted gross income.

After applying the deduction of losses (either a loss carry forward spread over time or a loss carry back that is limited in terms of amount), which is subject to the same restrictions as those for offsetting losses, taxable income is computed by deducting special expenses and extraordinary financial burdens from the adjusted gross income.

Certain expenditures detailed in the law may be deducted from adjusted gross income as special expenses, provided they are neither business expenses nor income-related expenses. They may be deducted in full (e.g., > church tax paid) or deducted up to maximum amounts, with such expenditures including:

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- provident expenses
(premiums on insurance policies of this type)
- expenditure on vocational training
- school fees
- expenditures on supplementary pension plans

A lump-sum allowance of €36 for individual filers and €72 for joint filers is deducted as special expenses unless taxpayers can show that their fully deductible special expenses are higher.

With regard to expenses of a provident nature, a distinction is made between contributions towards basic old-age provision, contributions towards basic health and long-term care insurance, and other provident expenses.

Contributions towards basic old-age provision are:

- contributions to the statutory pension system
- contributions to agricultural pension funds
- contributions to the pension schemes for the free professions which provide benefits comparable to the statutory pension system
- contributions to private certified basic pensions (Rürup pensions) in which the accrued entitlements to future pension payments cannot be used as collateral, bequeathed, transferred, sold or capitalised. These pensions may be paid out only in the form of a monthly annuity for life and may not be paid before the age of 60 (or before the age of 62 in the case of contracts concluded after 31 December 2011). Additional insurance cover may be taken out for surviving dependents or occupational disability/reduced earnings capacity.
- contributions towards an occupational pension if the pension commitment is based on a certified basic pension agreement

All contributions towards basic old-age provision (including any contributions paid by the employer in the case of taxpayers who are compulsorily insured under the statutory pension insurance system) are, in principle, deductible as special expenses up to a maximum of €20,000. For 2013, 76% of contributions up to this €20,000 maximum was deductible as special expenses. This deductible rises by two percentage points each year until 2025, when it reaches 100% of the €20,000 threshold. The threshold is doubled to €40,000 for joint filers.

A separate maximum amount applies for the other social security contributions (health, long-term care and unemployment insurance) and other provident expenses (e.g., private liability insurance and private term insurance). Taxpayers who do not have to pay the full amount of their health insurance themselves may deduct a maximum amount of €1,900 (examples of people belonging to this group include workers, salaried employees, persons entitled to allowances to cover medical costs and pensioners). All other taxpayers – such as self-employed persons who pay for their health insurance from their taxed income – may deduct a maximum of €2,800. Spouses who are assessed jointly may each claim the allowance individually. Taxpayers' contributions towards basic health cover and statutory long-term care insurance are, however, fully deductible. There is no maximum amount. If the contributions to basic health insurance and statutory long-term care insurance themselves exceed the maximum amount for other provident expenses mentioned above (€1,900/€2,800), the contributions to the basic insurance are still deductible in full. This means that other provident expenses may not, however, be deducted.

If the taxpayer received a wage, a flat-rate allowance for provident expenses will be applied via the system for deducting wages tax (see > wages tax). Assessment for income tax takes only the amounts actually paid by the taxpayer into account.

For children under 14 years of age and children who are unable to support themselves because of a physical, mental or psychological disability that arose before their 25th birthday, two thirds (and no more than €4,000) of documented childcare expenses may be deducted per child as special expenses.

Maintenance payments of up to €13,805 to divorced or permanently separated spouses may be deducted annually as special expenses. The amount the payer of maintenance pays towards the basic health and statutory long-term care insurance of the divorced or permanently separated spouse increases that limit. For the recipient, the maintenance payments count as other income and, as such, are subject to income tax of the same amount. This is referred to as limited real splitting. The payer must apply to obtain the deduction; the application requires the recipient's consent.

If the recipient refuses to consent, the maintenance payments may be claimed as an extraordinary financial burden under certain conditions. In this instance, the deductible amount is limited to €8,004

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(plus the contributions to basic health and statutory long-term care insurance that are made for the recipient).

Donations (gifts and membership contributions) serving public-benefit, charitable or religious purposes (tax-privileged purposes) and donations to political parties may also be taken into account as special expenses. There is a wide range of public-benefit purposes including the promotion of sports, education, nature conservation or development cooperation.

Donations to promote public-benefit purposes are generally deductible up to the amount of 20% of adjusted gross income or up to four tenths of a percent of the total turnover and the wages and salaries paid in a calendar year. Donations to political parties and independent electoral associations attract tax relief under section 34g of the Income Tax Act of 50% of these expenses, but not exceeding €825 for individual filers and €1,650 for joint filers. Donations to political parties that do not attract tax relief under section 34g of the Income Tax Act may additionally be deducted as special expenses up to a maximum €1,650 for individual filers and €3,300 for joint filers.

Expenditure for the support and occupational training of children is taken into account in the family benefits system by the provision of the tax-free child allowance and the allowances covering childcare, child minding and education for a child. This satisfies the constitutional principle under which families must be given tax exemption equivalent to the pertinent subsistence income and the childcare/minding/education needs of a child. To the extent not required for this purpose, child benefit serves to promote the family. In the case of a married couple subject to unlimited tax liability who live together, the stated tax-free allowances for children are doubled.

In the case of a married couple subject to unlimited tax liability who do not live together, child benefit is granted primarily to the parent that has care of the child. Each parent is granted the tax-free child allowance and the allowance for childcare/minding/education needs. This is then set off in each case against half of the child benefit. However, one parent may receive the tax-free child allowance for the other parent if the former essentially fulfils the obligation to support the child for the calendar year (and the latter fails to do so). This also leads to the transfer of the childcare/minding/education needs allowance. Other than the requirements for the transfer of the child

allowance, one parent may apply for the transfer of the other parent's allowance for childcare/minding/education if the minor child is not registered as living with that parent and that parent does not pay maintenance.

Extraordinary financial burdens of a general nature are deductible where taxpayers are forced, for legal, moral or factual reasons, to incur expenditure (e.g., as a result of ill health), insofar as such expenditure exceeds the burden they may reasonably be expected to bear themselves (scaled according to income and family status).

Subject to certain conditions, expenditure for the support and vocational training of another person may be deducted to a limited extent as an extraordinary financial burden; in addition, certain persons may claim lump-sum amounts. These cases are as follows:

1. Expenditure for the support and, as the case may be, the vocational training of a person legally entitled to receive support from the taxpayer or his/her spouse and for whom neither the taxpayer nor any other person may claim the tax-free allowance for children or child benefit if the dependent person has no or only a small amount of assets (maximum €15,500). Expenditure of up to €8,004 a year is deductible. Contributions to basic health and statutory long-term care that are made for the dependent person increase the deductible amount insofar as the contributions have not already been taken into account as special expenses. A status equal to that of the legally dependent person is accorded to a person in respect of whose support certain domestic public funds are reduced in accordance with the support payments made by the taxpayer. Any net income and, in principle, any earnings accruing to the supported person exceeding a total of €624 are to be set off against the amount of €8,004; the same applies for grants which the dependent person receives to finance training where the grants come from public funds or from institutions receiving public funds for this purpose.
2. Expenditure of up to €924 a year for the special needs of a child having attained the age of majority who is undergoing vocational training and lives away from home, and for whom the taxpayer is entitled to claim the tax-free child allowance or child benefit.

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3. People with disabilities are entitled to deduct a lump-sum amount ranging from €310 to €7,200 a year, depending on the extent and type of their disability. If it can be shown that they have incurred certain higher expenditure resulting directly from their disability, such expenditure may be deducted as an extraordinary financial burden instead of the lump-sum disability allowance, taking account of the burden they may reasonably be expected to bear themselves.
4. Surviving dependants are entitled to claim a lump-sum allowance of €370 a year.
5. Taxpayers who themselves look after an incapacitated relative in their own home or that of the relative may claim a lump-sum care allowance of €924 a year, provided they do not derive any income from long-term care insurance.

The taxable income determined in this manner forms the basis for the assessment of income tax according to the tax scale. This amount of tax constitutes the assessable income tax – with the amount reduced by credits for foreign taxes paid and any applicable tax relief (e.g., for expenditure on employment or services in or around the household) and increased by certain amounts (e.g., the amount of the entitlement to child benefit if tax-free child allowances have been deducted from taxable income because child benefits paid were not sufficient to effect the tax exemption stipulated in the constitution).

Employees are required by law to submit an income tax return in particular cases (see > wages tax). In other instances, income tax will only be assessed under certain circumstances, e.g.;

- the taxpayer applies for assessment, especially to credit wages tax and withholding tax on income from capital (final withholding tax)
- either spouse applies for separate assessment or both spouses apply for special assessment during the year in which they married
- a loss from income other than that derived from employment has to be taken into consideration (upon application by the taxpayer), e.g., because depreciation allowances on real property are claimed in accordance with section 7 of the Income Tax Act
- employees claim the reduced rate for extraordinary income

The following are credited against the assessed tax:

- any income tax prepayments for the current year according to the tax office's prepayment notice
- any income tax withheld at source (in the form of wages tax and withholding tax on income from capital/final withholding tax)

If final accounting shows that additional tax is due, the taxpayer must make a final payment of this amount. If current prepayments exceed the tax liability, the excess will be refunded.

Income tax law distinguishes between limited and unlimited tax liability. Individuals whose residence or habitual abode is in Germany are subject to unlimited tax liability. Individuals not fulfilling the stated preconditions for unlimited tax liability have limited tax liability if they derive domestic (i.e., German) income within the meaning of section 49 of the Income Tax Act (e.g., income from commercial business activity, capital assets or renting and leasing). In special cases, people who are resident abroad may also be treated as having unlimited tax liability.

As a rule, income tax is assessed on a taxpayer's taxable income in a given year, with assessment taking place after the expiry of that year. Assessment invariably commences with the taxpayer filing an income tax return stating the income he or she has received during the year in question. The tax payable is determined by way of a tax assessment notice. Married couples may elect to be assessed either jointly or separately, provided husband and wife are both subject to unlimited tax liability and are not permanently separated; these conditions must be satisfied either at the start of or at some point during the calendar year. If applicable, they may opt instead for a special assessment during the year in which they married. From 2013 onwards, married couples may opt for individual assessment only (in place of separate or special assessment).

If married couples elect to be assessed separately, each spouse is assessed on his or her income. Amounts deductible as special expenses are attributed to the spouse incurring them. Any eligible extraordinary burdens and tax relief for expenditure on employment/services in or around the home are halved and one half deducted from the income of each spouse, unless the spouses opt for a different division. The assessment is made according to the income tax scale.

Who is liable for tax?

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In the case of joint assessment, the net incomes accruing to each spouse are aggregated and the couple treated to all intents and purposes as a single taxpayer. Income tax is then determined using the income splitting method, with tax being computed according to the income tax scale on half of the joint income, and the result being doubled. Tax computed in this way is generally lower than the amount that would have arisen if the couple had filed separate returns.

In the case of special assessment during the year of marriage, the couple are treated for tax purposes as if they had not entered into the marriage. In the case of the option available from 2013 for married couples to be assessed individually, special expenses, extraordinary burdens and tax relief for expenditure on employment/services in or around the home will be credited to the spouse paying the costs. If the couple makes a consensual request, half will be deducted per person.

How much is the tax?

The income tax scale (also used to compute wages tax) is the centrepiece of the Income Tax Act. It is the basic determinant of income tax (wages tax) payable by a taxpayer on his or her income. The way in which the basic scale of income tax is built up is essentially determined by the fact that the tax burden must be adapted both to the fiscal needs of the state and, to ensure equitable taxation and for social reasons, to the financial resources of the taxpayer.

It is arranged as follows:

A basic personal allowance is granted on taxable income; the current allowance is €8,004 for individual filers and €16,008 for joint filers, and will be raised to €8,354 and €16,708, respectively, from 2014 onwards.

Tax rates on income in excess of the basic personal allowance increase progressively in two linear ranges, starting at 14% (the basic rate) and rising to 42% (the top rate).

Over the amounts of €52,882 for individual filers and €105,764 for joint filers, any increase in income is taxed at a constant rate of 42%.

A three-percent higher tax rate of 45% is applied to particularly high taxable income (€250,731 and up for individual filers; €501,462 and up for joint filers).

In both ranges with linear progression, the proportion of any additional income taken in tax (the marginal rate) increases in a straight line, although at differing gradients. In the upper proportional zone it remains constant. The extent of the tax burden in relation to total taxable income (the average burden) increases as income rises, approaching the top tax rate for very large incomes.

If taxable income includes extraordinary income, rate concessions may be claimed to avoid hardship that might otherwise be caused by progression. This applies in particular to income that accrues once only, such as compensation payments, proceeds from the sale of a business and certain income from an activity lasting several years. The rate concession is calculated by dividing the extraordinary income (to be given relief) by five and multiplying the tax payable on that portion by five.

If income tax (with the exception of wages tax) is withheld at source, flat rates apply (cf. > withholding tax on income from capital, > final withholding tax and > withholding tax on the income of non-residents).

The legal basis for taxing individual's income is provided by the applicable versions of the Income Tax Act and the Income Tax Implementing Ordinance. In addition, the Federation has issued income tax and wages tax guidelines (in the form of general administrative regulations with the consent of the Bundesrat) that are designed to clarify uncertainties and questions of interpretation.

The *Länder* administer the income tax.

The importance of income tax in Germany's taxation system is demonstrated when its receipts are compared with total tax revenue and GNP. In 2010, revenue from income tax (including revenue collected in the form of > wages tax and > final withholding tax, which are special forms of income tax collection) amounted to €1675.8bn, accounting for 31.6% of total tax receipts (which stood at €530.6bn). Income tax is thus the public authorities' most substantial source of revenue.

The taxpaying capacity of each individual is taken into account by making allowance for specific material and personal circumstances. Increasingly, income tax is also used to achieve economic, social and related policy objectives. Besides the arrangements in the Income Tax Act, these tax measures are regulated in separate laws.

What is the legal basis?

Who collects the tax?

How did the tax develop?

I

How did the tax develop?

Elements of personal taxation can be seen in the personal tithes (*decimae personales*) paid to the church in medieval times and in the territorial poll taxes that evolved from fixed personal taxes into taxes scaled according to estate (such as the Prussian *Kopfschoss* in the 17th century). The first German income tax along modern lines was levied from 1811 to 1813 in Eastern Prussia; it had already been advocated in 1808 by Minister *Freiherr vom Stein* as a war levy modelled on the English income tax of 1799. Under *Hardenberg*, Prussia introduced a class tax in 1820 which, in the grading of the tax according to external signs of prosperity, followed on from the groupings established by the estates and was intended to be something in between an income tax and a poll tax; for higher incomes, this was replaced in 1851 by a classified income tax, giving way in 1891 under Finance Minister *Miquel* to an exemplary system of standardised income tax incorporating progressive rates and the obligation to declare income. Up to the First World War, this was taken as a model by all German states, *Hesse* having changed over to general income taxation as early as 1869, followed by *Saxony* in 1874. In the course of *Erzberger's* financial reform in the early years of the Weimar Republic, the 27 income tax systems of the *Länder* were replaced in 1920 by a uniform Reich income tax, which was further refined in the tax reforms of 1925 and 1934. After 1945, income taxation was reassigned to the *Länder* by the allied powers until the Basic Law enacted in Bonn in 1949 stipulated that the revenue from income tax was to accrue in principle to the *Länder*, but that the Federation was entitled to a share. The constitutional amendment of 1955 made income tax into a joint tax of the Federation and the *Länder*; the respective shares in the revenue were to be adjusted according to the ratio of revenue and expenditure between the Federation and the *Länder*; from 1958 to 1969, the share taken by the Federation ranged from 33.3% to 39%. Since the 1969 financial reform, income tax has been one of the joint taxes under a comprehensive revenue-sharing arrangement, in which a share fixed by law (14% as from 1969 and 15% since 1 January 1980) flows to the municipalities, with the bulk of the receipts shared equally between the Federation and the *Länder*.

Inheritance and gift tax

In principle, inheritance tax covers all transfers of property that occur by reason of death. The tax is imposed on inheritances received. Unlike estate taxes, which are calculated according to the wealth left by the deceased, taxes on inheritances received are based on the amounts inherited by individual heirs, legatees or other recipients.

Gift tax complements inheritance tax. It covers lifetime transfers of property. Most of the legal provisions on assets received by reason of death also apply to gifts.

Tax is also charged on donations made for specific purposes, and, at certain intervals, the assets of family foundations and similar associations.

Full tax liability attaches to the entire amount of assets received if the deceased is a German resident at the time of his/her death, if the donor is a German resident at the time of the donation, or if the recipient is a German resident when the tax becomes chargeable. If none of the parties involved is a German resident, the transfer becomes taxable to the extent that it involves certain German domestic assets as described in section 121 of the Valuation Act.

The following constitute receipt of a transfer by reason of death:

- receipt by way of inheritance
- receipt by bequest or by similar means
- receipt by assertion of a claim to a compulsory portion of an inheritance
- receipt of a gift made in contemplation of death
- receipt under a contract entered into by the deceased, particularly payment falling due under a life assurance policy

Tax is also imposed on certain other receipts of assets as specified in section 3 subsection (2), section 4 and section 6 of the Inheritance and Gift Tax Act.

What is the tax payable on?

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A gift is defined as any gratuitous donation made by a living person through which the recipient's wealth increases and the donor's wealth decreases. Further actions subject to gift tax are detailed in section 7 of the Inheritance and Gift Tax Act.

Inheritance tax and gift tax are also chargeable on what are termed 'donations for specific purposes' (cf. section 8 of the Inheritance and Gift Tax Act). However, these are generally tax-exempt under section 13 subsection (1) numbers 15 and 17 of the Inheritance and Gift Tax Act.

The basis of assessment for both inheritance tax and gift tax is the taxable receipt of a transfer. This is equivalent to the increase in the recipient's wealth, to the extent that this increase is not tax-exempt. In computing the taxable receipt of an inheritance, not only the deceased's debts are deductible, but also liabilities incurred in connection with bequests, testamentary obligations and compulsory portions claimed. Further deductible liabilities of the estate include the cost of the deceased's funeral (including the gravestone and maintenance of the grave) and the cost of winding up, settling, distributing and attaining the inheritance. To cover all of these costs, a fixed allowance of €10,300 may be deducted without having to provide documentary evidence of the expenses. Any tax exemptions to which the recipient is entitled are then deducted from the net value of the transfer received.

Where transfers are made for consideration less than their value and thus contain a gift element, or where there are conditions attached to a gift, the tax value of the consideration or conditions to be fulfilled is deducted from the tax value of the gift.

The values of the individual assets are measured in accordance with the Valuation Act. This measurement is based on the fair (market) value.

The valuation of real property for tax purposes relies heavily on the rules for determining the fair market value of land, based on the Federal Building Code.

The value of real property is measured whenever it is relevant to taxation in a given case.

The value of **undeveloped real property** is measured on the basis of its area and the applicable standard ground values.

How are the assets valued?

These are determined and published by the committee of land valuation experts responsible for the local area.

In the case of **developed property**, the real property value is calculated using the comparative value method, the rental value method or the material value method.

- The **comparative value** method is generally used to value detached and semi-detached houses as well as residential apartments and non-residential rooms forming part of larger properties. The value of the property is determined by comparison with the prices of similar properties.
- The **rental value method** is used to value property rented for residential purposes as well as mixed-use and business property for which it is possible to determine the customary amount of rent paid on the local market. The value of the property is calculated by determining the value of the land in the same way as for undeveloped property and adding a value representing the yield from the building. This yield value is found by applying a set multiplier to the net earnings from the building. The net earnings from the building are determined in accordance with the annual (actual or customary) rent minus maintenance costs and minus a rate of interest applied to the value of the land. The minimum value that may be recognised in this procedure is the value of the land.
- The **material value method** is used for real property for which neither the comparative value nor the rental value method is practicable. Such property comprises:
 - detached and semi-detached houses as well as residential apartments and non-residential rooms forming part of larger properties, if no values of comparable properties are known that would enable the comparative value method to be used
 - mixed-use and business properties, if the customary rent for the local area cannot be determined
 - other developed real property
- Under this method, the value of the property is determined on the basis of the standard construction costs for the building and for other facilities together with the value of the land. If the taxpayer provides evidence substantiating a lower market value, this is to be recognised instead. When measuring the value of agricultural and forestry property, a distinction is made between the following:

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- the residential units belonging to the business and the residential areas, which are valued as residential real property and
- the commercial part of the property, for which a standardised version of the rental value method is used in principle (a minimum value applies)

It may be necessary to measure the value of non-listed shares in an incorporated business, or stakes in a sole trader's or partnership's business assets. In these cases, either a simplified procedure based on the prospective profits of the business, or another procedure customary in the sector concerned, must be followed. The net asset value constitutes the lower limit.

Liability to pay inheritance tax attaches to the recipient of the transfer. When tax is payable on a gift, both the donor and the recipient are liable.

A number of notification requirements are laid down in the Inheritance and Gift Tax Act to ensure that no transfer escapes taxation. These requirements apply to the recipient and to courts, authorities, banks and insurance companies.

The tax-free allowance available depends on the recipient's tax class. There are three different tax classes under the Inheritance and Gift Tax Act, and the recipient's relationship with the deceased or donor determines which is applicable, as follows:

Class I:

This class applies to the deceased's spouse or registered partner, to children and step-children of the deceased, to grandchildren and to parents and forebears in the case of transfer by reason of death.

Class II:

This class applies to parents and forebears in the case of transfer by gift (for transfer by reason of death see class I), to brothers and sisters (also half-brothers and half-sisters), nephews, nieces, step-parents, sons-in-law, daughters-in-law, parents-in-law and to the divorced spouse or partner from a registered partnership that has been annulled.

How much is the tax?

Class III:

This class applies to all other recipients and to donations for specific purposes.

To begin with, every beneficiary is entitled to a personal tax-free allowance. This applies to receipts by reason of death as well as to lifetime gifts. Since 1 January 2009, the amount of the allowance has been as follows:

- €500,000 for the spouse or registered partner
- €400,000 for children or the children of deceased children
- €200,000 for grandchildren
- €100,000 for any other persons in class I
- €20,000 for persons in class II or class III

In addition, the surviving spouse or registered partner, as well as any children under 27 years of age, benefit from a special tax-free allowance for maintenance purposes. This tax-free allowance applies only to transfers received by reason of death and is reduced by the amount of any tax-exempt pension payments accruing to the recipients because of the death. The tax-free allowance for maintenance purposes is €256,000 for the surviving spouse or registered partner, and ranges from €52,000 for children aged five or under to €10,300 for children between 20 and 27 years old.

To make sure that these tax-free allowances are claimed only once in a ten-year period, all donations received by one person from a single other person are counted together for tax purposes.

Alongside the personal tax-free allowances, a number of other **tax exemptions** exist:

- Persons in class I do not have to pay tax on household effects including linen and items of clothing that they receive up to a value of €41,000. These persons also benefit from a tax-free allowance of €12,000 in respect of other movable objects received, including art objects and collections. However, this does not apply to currency, securities, coins, precious metals, gems and pearls.

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- Beneficiaries of class II and III are entitled to a combined tax-free allowance of €12,000 for household effects and other movable objects, subject to the exclusions named above.
- No gift tax is payable on residential property that an individual donates to his or her spouse or registered partner if that person uses it for his or her own housing (this is sometimes referred to as a 'family home'). This exemption covers a detached or semi-detached house, a rented residential, commercial or mixed-use property, or an owner-occupied residence.
- Similarly, the inheritance of a family home by the surviving spouse or registered partner is tax-free if the deceased personally used the home for residential purposes and the recipient then immediately uses it for his or her own residential purposes. If the family home is sold or rented out within 10 years of the transfer, the tax exemption is revoked with retroactive effect. There are exceptions that apply when the personal use is abandoned for compelling objective reasons such as death or moving to a care home due to a significant need for long-term care. Under the conditions stated above, a family home with living space of up to 200 square metres can be passed on to children free of tax. If the living space is larger than this, the corresponding share of the property is liable to tax.
- 10% of the value of real property rented for residential purposes is exempt from tax; the same applies to portions of such property.
- Special exemptions can be claimed when receiving business assets, shares in corporations in which the deceased/donor held a direct stake of more than 25%, as well as agricultural and forestry assets (business property).
- The usual rate of tax relief is such that an 85% tax exemption applies to the business property received, provided certain conditions are met. The recipient must maintain the business for five years and keep its total payroll above a certain level. Small and medium-sized enterprises can also claim a tapered deduction of €150,000. Taken together, these provisions ensure that no tax is paid on business property worth up to €1m.
- An alternative tax relief option allows a 100% tax exemption, provided more rigorous conditions are satisfied.
- If the business property is sold or otherwise disposed of within the applicable period, the tax exemption granted is revoked in whole or in part, and with retroactive effect.

Inheritance and gift tax are charged at the following rates
(as of 1 January 2010):

Taxable value received (in €)	Percentage rate for tax class		
	I	II	III
≤ €75,000	7	15	30
≤ €300,000	11	20	30
≤ €600,000	15	25	30
≤ €600,000	19	30	30
≤ €13,000,000	23	35	50
≤ €26,000,000	27	40	50
> €26,000,000	30	43	50

The Inheritance and Gift Tax Act specifically entitles recipients of certain assets to apply for payment of the tax to be suspended for up to ten years. This entitlement exists in the following cases:

- receipt of business, agricultural or forestry assets, if these are necessary for the continuation of the business
- receipt of real property rented for residential purposes, if the recipient would only be able to pay the tax due on such property by selling it
- receipt of a detached or semi-detached house or other residential property used for the recipient's own residential purposes, but only for as long as the recipient's personal use of the property continues

If the receipt occurs by reason of death, no interest will be charged on such suspension of tax due.

The legal basis for the imposition of inheritance and gift tax is the Inheritance and Gift Tax Act in the version published in Article 1 of the Inheritance Tax Reform Act of 24 December 2008 (Federal Law Gazette I, p. 3018), last amended by the Recovery Directive Implementing Act of 7 December 2011 (Federal Law Gazette I, p. 2592).

What is the legal basis?

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A further legal basis is the Valuation Act in the version published in Article 2 of the Inheritance Tax Reform Act of 24 December 2008 (Federal Law Gazette I, p. 3018), last amended by the Recovery Directive Implementing Act of 7 December 2011 (Federal Law Gazette I, p. 2592).

Who collects the tax?

The revenue from inheritance and gift tax accrues to the *Länder*. The tax is assessed and collected by the tax offices.

How did the tax develop?

Historical forerunners of the taxation of inheritances in Germany may be seen in the inheritance tithe payable to the Frankish sovereign for decisions in disputes over inheritances; the levy imposed in medieval times under Old Friesian law on distant relatives with entitlement to inherit; the levies on change of title (designated as *Sterbfall*, *Totenpfund*, *Totenzins*, *Totenzoll* and the like) which were payable from the late 9th century onwards to the feudal lord and in some instances to the supreme lawgiver and territorial prince. In the 17th and 18th centuries, numerous German territorial rulers and towns introduced a levy on inheritance by collateral relatives. A further form of taxation on inheritances in the individual German states existed in the form of stamp duties (for the documentation of wills and inheritance contracts). Prussia departed from this trend by introducing in 1873 a technically up-to-date inheritance tax law which served as a model for the other states. Hamburg brought in delayed taxation of heirs in 1894, whilst progression according to the size of the estate was introduced by Baden in 1899.

The Reich law of 1906 standardised the inheritance tax laws of the *Länder* on the basis of a tax imposed on the transfer of property by reason of death, though the individual states were assigned shares of the revenue and the right to impose surcharges and additions. In the course of Erzberger's financial reform, the inheritance tax was assigned in its entirety to the Reich in 1919; in addition to the inheritance and gift tax imposed on the heirs and recipients of gifts, an estate duty 'on the deceased' was still levied up to 1922. A new and improved version of the Inheritance Tax Act was adopted in 1925, with the inclusion of the value concepts taken from the newly adopted Reich Valuation Act. The basic elements of this version helped to shape the law as it stands today. Since 1945 (as confirmed in 1949 in the Basic Law) the revenue from inheritance tax has again accrued to the *Länder*.

Insurance tax

Insurance tax, which belongs to the category of transactions taxes, is imposed on the payment of insurance premiums. The tax is payable regardless of whether the purchase of insurance is voluntary (e.g., by contract) or mandatory (e.g., prescribed by law). However, the tax does not apply to certain types of insurance, including all statutory and private life insurance, all statutory and private health insurance, and statutory unemployment insurance.

Liability for insurance tax attaches to the insured party. However, the tax is generally reported and paid by insurance companies. However, if insurance is purchased from an insurer domiciled in a country outside the European Union or the European Economic Area, the insured party must file a tax return with the Federal Central Tax Office and pay the self-assessed insurance tax.

In general, the insurance premium serves as the basis for determining the amount of insurance tax. In some cases, a proportion of the insurance premium serves as the tax base (see > fire protection tax). The insured value serves as the tax base in only one case, namely that of multi-risk agricultural insurance, which covers damage caused by hail, storm, heavy frost, heavy rainfall or flooding to (i) agricultural products or (ii) glass covering used in agricultural or horticultural enterprises.

Generally, the tax rate is 19% of the insurance premium. Exceptions include the tax rates (as of 1 July 2010) on home contents insurance (19% of 85% of the insurance premium), residential building insurance (19% of 86% of the insurance premium), and fire insurance and insurance against business interruptions due to fire (22% of 60% of the insurance premium). Fire protection tax is due on the remaining portion of the premiums for these types of insurance. Other rates include 3% for marine hull insurance and 3.8% for accident insurance with no-claims bonus. For multi-risk agricultural insurance, the rate is .03% of the insured value.

The legal bases for imposing insurance tax are the Insurance Tax Act and the Insurance Tax Implementing Ordinance.

What is the tax payable on?

Who is liable for tax?

What is the legal basis?

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Who collects the tax?

Revenue from insurance tax accrues to the Federation. Since 1 July 2010, the tax has been collected by the Federal Central Tax Office.

How did the tax develop?

Taxes on insurance were originally introduced with the spread of assurances in the 18th and 19th centuries. These taxes generally took the form of a stamp tax that was imposed whenever an assurance policy was registered officially, as was required by authorities. The rules for imposing this tax on documents varied very widely in the German states of the 19th century even after a general transition was made toward taxing the insured value, a practice that was introduced by the Prussian Stamp Tax Act of 1895. Under the Reich, insurance tax took the form of a transactions tax as standardised by the Reich Stamp Duty Law of 1913. The tax then obtained its modern legal basis under the Insurance Tax Act of 1922; the 1937 revision of this Act was largely retained after 1945. Revenue from insurance tax was assigned to the *Länder* under the Basic Law in 1949 and then reassigned to the Federation from 1970 onwards by the Financial Reform Act of 1969. Insurance tax has been administered by the Federation since 1 July 2010, on the basis of the Concomitant Act on the Second Federalism Reform passed in 2009.

Intermediate products duty

What is the duty payable on?

Intermediate products duty is an > excise duty regulated by federal statute.

Simply put, intermediate products are alcoholic beverages that fall in between the categories of wine and spirits. The law also makes reference to specific headings in the Combined Nomenclature (CN) in order to define dutiable intermediate products. As a general description, intermediate products are beverages falling under CN headings 2204, 2205 and 2206 that have an actual alcoholic strength by volume above 1.2% but not exceeding 22% and that are not dutiable as sparkling wine or beer. Typical examples of intermediate products include sherry, port wine and Madeira.

How much is the duty?

In general, the duty on intermediate products is €153 per hectolitre. However, the duty on intermediate products with an actual alcoholic strength by volume of less than 15% is €102 per hectolitre.

Furthermore, a duty of €136 per hectolitre is levied on intermediate products that (i) are contained in bottles with sparkling wine stoppers held in place by special ties or fastenings or (ii) at +20°C have an excess pressure, due to carbon dioxide in solution, of 3 bar or more. The legislative provisions governing sparkling wine duty (> sparkling wine duty) also apply to intermediate products.

The legal basis for imposing intermediate products duty is the Sparkling Wine and Intermediate Products Duty Act of 15 July 2009 (Federal Law Gazette I, p. 1870).

Licensing tax

Licensing tax is a local tax that is generally collected by municipalities and in some instances by rural districts or towns administered as districts. The tax is payable by anyone who is granted a licence to operate catering premises on which spirits are sold, or to engage in the retailing of spirits. There are special regulations on keeping licensed premises, and compliance with these rules must be monitored. Furthermore, restricting the consumption of alcohol serves key interests of the community, particularly in terms of health policy. These circumstances serve as the basis for justifying the existence of licensing tax as an incentive charge. Besides being intended as a means of regulating trade and realising social policy aims, it also serves to offset the specific advantages enjoyed by licensees. The tax is payable by the person operating licensed premises or retailing spirits. The tax is usually computed on the basis of turnover, annual profit, working capital or the area of the premises or a combination of these, though turnover has gradually become the most frequently used reference figure. The decisive factor is the turnover of the first year of operation, or that of the following calendar year, and tax is payable as a fixed percentage of this (generally between 2% and 30%). The legal basis of this tax consists of municipal by-laws based on the *Länder* laws on municipal taxation.

As early as the Middle Ages, German towns were imposing levies on persons entitled to sell intoxicants, either in the form of a fee (*Schankgeld* or *Zapfgeld*) or a tax (*Ungeld* or *Akzise*). These were subsequently imposed by the territorial rulers as well, and in the 19th century were integrated in part in the stamp duty laws of the German states. The Prussian District and Provincial Taxes Act of 1906

What is the legal basis?

What is the tax payable on?

How did the tax develop?

recognised the stamp duty as a municipal licensing tax. After the First World War there were some temporary communal 'night taxes' or 'sitter taxes' that were levied on the sale of intoxicants to night-time 'sitters' in licensed premises. The Prussian Financial Equalisation Act of 1938 restricted the right to impose these taxes to urban and rural districts. After 1945 the licensing tax was retained in the new tax regulations of the *Länder* as a local consumption tax on certain expenditure.

Local taxes

Local taxes are a category of taxes that are connected with a local situation or transaction and whose immediate effect is of local significance only. The most important of these taxes are > beverage duty, > entertainment tax, > dog tax, > licensing tax, > hunt-ing and fishing tax and > secondary residence tax.

With the exception of licensing tax, the nature of local taxes assigns them to the category of excise duties and taxes on expenditure. Some of these taxes are not levied in all of the *Länder*, whilst others (such as the secondary residence tax) are imposed in only a few municipalities. The *Länder* laws on municipal taxation in general or on specific taxes constitute the legal basis for taxation. These laws give the municipalities the right to pass by-laws and thus to stipulate in detail whether or not a local tax is levied and how it is structured. In addition, the *Länder* laws may oblige the municipalities to impose certain taxes.

Standard by-laws have been developed for most local taxes, with the result that methods of assessment have largely been harmonised. The amount of revenue raised is essentially at the discretion of the municipalities or associations of municipalities. Local taxes account for only about 1% of the total tax revenue accruing to the municipalities. Since local taxes are only of minor overall significance to the municipalities and associations of municipalities in terms of the revenue they generate, they are sometimes referred to as minor municipal taxes. However, local taxes are of greater significance in a small number of municipalities where local tax revenue provides a valuable addition to revenue from other taxes.

Motor vehicle tax

Motor vehicle tax is essentially payable on the keeping of vehicles for use on public roads, irrespective of the actual extent of such use. The term 'vehicles' includes motor vehicles and trailers as described in the Vehicle Licensing Regulations.

As a rule, motor vehicle tax for vehicles registered in Germany is payable by the person in whose name the vehicle is registered for road use. Liability for tax generally begins when the vehicle is registered and ceases when it is taken out of service under road traffic law, which involves contacting the registration authority.

New passenger cars registered on or after 1 July 2009 are taxed primarily on the basis of CO₂ emissions, using the following components:

- a base rate related to engine capacity, with a distinction made between positive-ignition (e.g., petrol) engines and compression-ignition (e.g., diesel) engines,
- plus
- an amount based on CO₂ emissions, calculated by applying a flat rate of tax per gram to the car's certified CO₂ rating per kilometre, with part remaining tax-free

The first component of the tax (base rate) is higher for diesel cars than for petrol cars to compensate for the fact that the former benefit from more favourable treatment as regards energy duty. The CO₂ rating for each car is set by the vehicle registration authorities. It is stated in the register of vehicles and on the vehicle's own registration certificate. The part of this rating that remains untaxed was reduced for new vehicles registered on or after 1 January 2012 and will be further reduced in 2014.

Purely electric vehicles, which are propelled exclusively using electric motors powered entirely or primarily by mechanical or electrochemical energy storage devices or by zero-emission power converters, are exempt from tax for 10 years beginning on the date of their first registration.

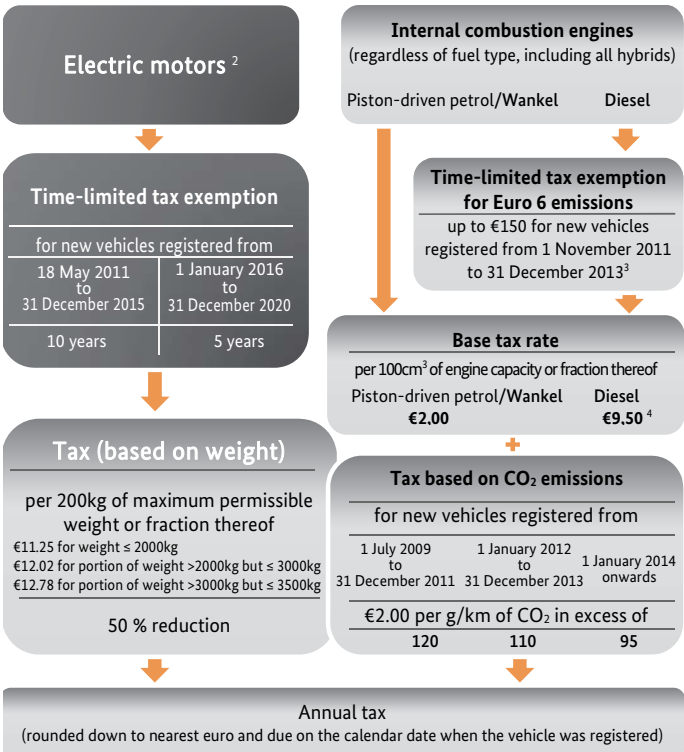
What is the tax payable on?

Who is liable for tax?

How much is the tax?

Overview of motor vehicle tax on cars

For new vehicle registrations from 1 January 2009¹



Information about new cars registered before 1 July 2009 and an interactive calculator for motor vehicle tax are available (in German) on the Federal Ministry of Finance's website (www.bundesfinanzministerium.de).

The annual tax payable for motorbikes requiring registration is €1.84 per 25cm³ of engine capacity, or fraction thereof. The tax to be paid for mobile homes is based on the maximum permissible weight

1. As well as new cars registered between 5 November 2008 and 30 June 2009 and subject to the CO₂-based motor vehicle tax if this tax rate proves more favourable (section 18 subsection (4a) of the Motor Vehicle Tax Act).
2. Powered entirely or primarily by batteries or flywheel systems (electrochemical or mechanical energy storage devices) or by fuel cells (zero-emission power converters) (section 9 subsection (2) of the Motor Vehicle Tax Act).
3. Exemption period is calculated to the exact date based on the annual tax for the car (section 3b of the Motor Vehicle Tax Act). A grandfathering provision also applies (section 18 subsection (11) of the Motor Vehicle Tax Act).
4. The higher tax rate for diesel cars compensates for the lower energy duty rate on diesel fuel compared with petrol.

and pollutant emissions (using the EU's emissions standards). For vehicles in the separate legal category of three-wheeled and light four-wheeled motor vehicles (including trikes and quads), the tax is calculated on the basis of engine capacity and the applicable EU emissions standard.

Other motor vehicles with a maximum permissible weight of up to 3.5 tonnes are taxed purely according to their weight.

There are four emissions-based categories for heavy goods vehicles, which are ordered by maximum permissible weight in 200kg steps. Motor vehicle tax law gives priority to the pollutant emissions category as defined in the Road Traffic Registration Regulations.

The maximum annual tax payable for the different categories is as follows:

■ pollutant emissions category S2 or better	€556
■ pollutant emissions category S1	€914
■ noise category G1	€1,425
■ other	€1,681

If any of the vehicles described above is a purely electric vehicle, it is taxed on the basis of its maximum permissible weight, with a 50% discount.

Vehicle trailers are subject to a linear tax schedule, with €7.46 being charged for each 200kg of the maximum permissible weight, or fraction thereof; the tax is capped at €373.24.

Exemptions from motor vehicle tax apply, for example, to all vehicles excepted from the regulations on the registration procedure; vehicles in the service of Germany's armed forces, police and customs; and vehicles used exclusively for purposes dictated by law (e.g., firefighting, patient transport and disaster response). The law also contains concessions for motor vehicles kept by severely disabled persons.

The keeper of the vehicle receives written notification of the amount of motor vehicle tax assessed as being payable; this assessment is valid until further notice. The tax is generally payable in advance for a given year. If more than €500 in tax is due in a year, it may be paid in

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equal half-yearly instalments plus a 3% surcharge. If more than €1,000 is due for the year, the amount may be split into equal quarterly payments plus a 6% surcharge. A new notice is issued to the vehicle's keeper only if the assessment is changed. If a person's tax liability ceases, the tax for the final period is calculated precisely to the last day. Any excess tax paid is refunded. The minimum length of time for which vehicles registered in Germany can incur tax is one month.

What is the legal basis?

The main legal bases are the Motor Vehicle Tax Act and the associated Motor Vehicle Tax Implementing Ordinance.

Who collects the tax?

Motor vehicle tax has been a federal tax since 1 July 2009. The Federal Ministry of Finance is responsible for administration of the tax, and will continue for some time to rely on the revenue authorities of the *Länder* for assistance. The latter are deemed to be federal revenue authorities when acting in this capacity. This means that the tax offices will retain their local responsibility as points of contact for the tax until 30 June 2014.

How did the tax develop?

Precursors to the tax were the road and bridge tolls exacted in the Middle Ages, which were the earliest levies on vehicles in Germany. These charges on road use were set according to the number of wheels on the vehicle. These were later joined by levies on horses and carriages designed to tax luxury items including the coach tax (adopted in Brandenburg-Prussia in 1698, for example). In the 19th century the traffic charges in the individual German states included highway charges (adopted in Württemberg in 1817 and in Prussia in 1828, for example), whilst bridge, road and pavement tolls continued to be levied and in some instances were still imposed as local charges well into the 20th century (as adopted in Bavaria in 1933, for example).

A tax attaching specifically to motor vehicles, originally in the form of a luxury tax, emerged shortly after the first motor car was patented (1886) in Hesse-Darmstadt in 1899 and in Lübeck in 1902. In 1906 this source of tax revenue was included as a stamp duty in the Reich Stamp Duty Act, which stipulated that licences subject to stamp duty had to be purchased for passenger cars. This arrangement was superseded in 1922 by the Motor Vehicle Tax Act, which was a modern law for its time and also covered heavy goods vehicles. Half of the revenue from this Reich tax accrued to the *Länder*. Tax officials introduced the concept of engine capacity to the calculation of motor vehicle tax in 1927. Various forms of tax relief were added to the law from 1933 onwards. For

example, trailers and new cars were exempted from tax. By 1947, these had largely been repealed by the Allied Control Council. In 1949, the Basic Law assigned revenue from motor vehicle tax to the *Länder*. The laws affecting motor vehicle tax that were passed by the Allied Control Council ceased to have effect in 1958, coinciding with an amendment to the law.

In all of the *Länder* of the Federal Republic of Germany, tax cards were replaced in 1960 by one-off notices applicable for as long as German-registered vehicles were liable for tax. Relief for electric vehicles appeared as early as 1972, while tax assessment for vehicles powered by internal combustion engines started to take environmental criteria into account from 1985 onwards. Over time, environmental priorities increasingly came to the fore. In 1989, a component of motor vehicle tax was introduced for diesel-powered cars, with a standardised charge to compensate for their preferential treatment as compared to petrol cars with regard to mineral oil duty (now energy duty). Following German reunification, a system of tax stamps continued to operate in the former territory of the German Democratic Republic for a transitional period until 1992. These stamps were purchased from the post office and affixed to a tax card. Special provisions have applied to the registration of classic cars and seasonal registrations since 1997. Motor vehicle tax for heavy goods vehicles was last cut in 2007, to harmonise the conditions for competition in the European freight transport market. This brought motor vehicle tax in line with the minimum level permissible under EU law for vehicles required to pay tolls or purchase vignettes. Since mid-2009, tax on passenger cars registered for the first time has been primarily based on the vehicle's CO₂ rating instead of its pollution class under the emissions standards.

Amendments were made to the Basic Law to give the Federation both responsibility for the administration of motor vehicle tax and the right to the revenue as of 1 July 2009. Since then, receipts from motor vehicle tax have accrued to the federal budget as general revenue not earmarked for any specific purpose. As compensation, the *Länder* receive a certain amount each year from the Federation's revenue. This amount is set by law.

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Nuclear fuel duty

What is the duty payable on?

Nuclear fuel duty is an > excise duty regulated by federal statute. It applies to the use of nuclear fuels for commercial electricity generation within Germany's fiscal territory (the Federal Republic of Germany excluding both the territory of Büsingen and the island of Heligoland). The relevant legislation defines nuclear fuel as plutonium-239, plutonium-241, uranium-233 and uranium-235, in their original state and in compounds, alloys, ceramic products and mixtures.

Who is liable for duty?

Nuclear fuel duty originates when a fuel element or individual fuel rods are installed in a reactor for the first time and a self-sustaining chain reaction is triggered. The duty applies to the nuclear fuels contained in the fuel elements or rods.

The person liable for the duty is the operator of the nuclear power plant as the holder of a licence, under nuclear law, to operate a nuclear fission plant for the commercial generation of electricity.

When the duty originates with respect to nuclear fuel, the person liable for the duty has until the 15th day of the following month to submit a self-assessed tax return in respect of that fuel, and must pay the duty on or before the 25th day of that month. However, if the duty originates between 1 and 18 December, the self-assessed tax return must be submitted and the duty paid by 22 December at the latest.

Nuclear fuel duty is charged at a rate of €145 per gram of plutonium-239, plutonium-241, uranium-233 or uranium-235.

The Nuclear Fuel Duty Act provides the legal basis for imposing the duty.

Nuclear fuel duty is collected by the Federal Customs Administration, and the revenue accrues to the Federation.

Nuclear fuel duty was introduced on 1 January 2011 and will be imposed for a limited period, until 31 December 2016. Revenue from the duty is to be used both for budgetary consolidation in general and to reduce the burden on the Federation's finances caused by the need to renovate the Asse II nuclear waste repository.

How much is the duty?

What is the legal basis?

Who collects the duty?

How did the duty develop?

Real property tax

What is the tax payable on?

Real property tax is a non-personal tax imposed on economic units of real property, which are defined in line with section 2 of the Real Property Tax Act (category A real property tax for agriculture and forestry businesses and class B real property tax for real property). Taxation does not take account of the taxpayer's personal circumstances or ability to pay.

The process of determining what real property tax is payable follows a sequence of three independent steps. These are the procedure to determine the assessed value, the procedure to determine what is known as the base tax amount, which is derived from the assessed value, and the procedure to determine the tax due, which uses the base tax amount as an input.

The process starts with one of the following, depending on the real property in question:

- in the case of real property (agricultural and forestry businesses, private and business property) in the old *Länder*, the assessed value established under the Valuation Act in accordance with 1964 values
- in the case of agricultural and forestry businesses (excluding residential property) in the new *Länder*, the substitute economic value established under the Valuation Act in accordance with 1964 values
- in the case of real property in the new *Länder* for which the value has been or is to be assessed in accordance with 1935 values under the Valuation Act, the 1935 assessed value
- in the case of rental property and detached houses built before 1991 in the new *Länder* for which no 1935 assessed value has been or is to be established, the substitute tax base, calculated on the basis of residential or usable area (with real property tax imposed at a flat rate per square metre), as provided in section 42 of the Real Property Tax Act

Notable exemptions from real property tax apply to public authorities, the churches and benevolent or welfare institutions.

On the basis of one of the assessed values or substitute economic values, the tax office determines the base tax amount. This information is then passed on to the municipality in question. The rates that are applied to the assessed value or substitute economic value to obtain the base tax amount are as follows:

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- between 0.26% and 0.35% for real property in the old *Länder*, according to type
- between 0.5% and 1.0% for real property in the new *Länder* (making allowance for the appreciably lower 1935 assessed values), according to type and category of municipality
- a uniform rate of 0.6% for agricultural and forestry businesses

Article 106 paragraph (6), second sentence, of the Basic Law stipulates that the municipalities must be authorised to set multipliers for real property tax within the framework dictated by the laws. Municipalities apply a multiplier fixed by the municipal council to the base tax amount, and determine the tax due by issuing a tax notice. In the new *Länder*, real property tax is sometimes still calculated in a simplified procedure which uses the residential or usable area as a substitute tax base, and applies a flat rate to this. The tax is then collected by means of provisional tax returns (section 44 of the Real Property Tax Act). As the municipalities are free to fix the multiplier as they see fit, the tax imposed may differ to some extent from one municipality to the next.

How much is the tax?

The weighted average of the multipliers applied by the municipalities in the old *Länder* in 2011 was 308% for category A real property tax (agricultural and forestry businesses) and 411% for category B real property tax (real property). The corresponding figures in the new *Länder* were 284% for category A and 414% for category B.

What is the legal basis?

The legal basis for the imposition of real property tax is the Real Property Tax Act, in the version published in the Act to Reform Real Property Tax Law of 7 August 1973 (Federal Law Gazette I, p. 965), with subsequent amendments.

Who collects the tax?

Real property tax is collected by the municipalities, who receive the revenue in its entirety.

How did the tax develop?

The imposition of tax on real property is one of the oldest forms of direct taxation. Already in existence in the ancient world, this type of taxation spread northwards over the Alps under Roman influence and was initially replaced on German soil by land tithes and land charges payable to churches and feudal lords, being refined from the High Middle Ages onwards under the name of *Bede* from a 'voluntary contribution' to an obligatory tax. By virtue of its link to real property as the most evident and most readily accessible part of any property,

the tax came to predominance in the territorial tax systems during the agrarian period (under names such as *Hufenschoss*, *Bauernschoss*, *Grundschoss* or *Kontribution*). Whereas the older types of real property tax were based only on rough, area-based estimates of land values, the development of land registry techniques from the 18th century onwards brought an additional assessment in terms of the type of cultivation and the quality of the land. This was the basis of real property tax laws in the 19th century tax systems of the individual states (for instance the laws passed in 1811 in Bavaria, 1821 in Württemberg, 1854 in Baden and 1861 in Prussia). In Miquel's tax reform of 1891/93, real property taxation in Prussia was essentially left to the municipalities. In the dire financial straits after the First World War the Reich financial reform of 1920 placed the *Länder* under a direct obligation to realise the revenue from this tax. This gave rise to differing systems in the *Länder*, and it was only the 1936 reform of non-personal taxes which put in place a standardised Real Property Tax Act throughout the Reich, generally assigning the revenue to the municipalities. After 1945 new real property tax regulations were passed in various *Länder*, but these were replaced in 1951 by a single Real Property Tax Act valid throughout the Federal Republic of Germany. In 1961 and 1962, category C real property tax (on building land) existed alongside categories A and B. The category C tax imposed a higher charge on land that was available for building but was still undeveloped, the aim being to increase the supply of building land.

Real property transfer tax

Real property transfer tax is a transactions tax. It attaches to transactions in respect of real property located in Germany, to the extent that these transactions serve to confer ownership or near-ownership status. The tax particularly applies to contracts of sale and other legal transactions under which a party acquires a right to the transfer of title to real property located in Germany.

Tax is also levied on numerous other transactions, such as: the transfer of title in connection with the expropriation of real property; the highest bid in a sale by public auction ordered by a court; the direct or indirect change in the composition of a partnership that holds real property, where such change is effected by a transfer of not less than 95% of the shares in the assets of a partnership to new partners; the transfer of beneficial ownership; certain company reorganisation measures; and the direct or indirect concentration in one hand, or the

What is the tax payable on?

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transfer, of not less than 95% of the shares in a company holding real property. The same status as real property is accorded to the hereditary right to erect or maintain a building on someone else's property and to buildings situated on another person's land.

Who is liable for tax?

Tax liability attaches in general to the persons taking part in the transaction, in other words, the buyer and seller of the property. These persons may agree by contract that only one of them is responsible for paying the tax.

Certain transactions are exempt from tax, including:

- the receipt of real property making up part of a deceased person's estate by joint heirs in the process of dividing the estate
- the receipt of real property by the spouse or registered partner of the person alienating the property
- the receipt of real property by persons related in a direct line of descent to the person alienating the property (including stepchildren and their spouses)
- the receipt of real estate of low value (not exceeding €2,500)
- the receipt of real property by reason of death and gifts of real property within the meaning of the Inheritance and Gift Tax Act (excluding gifts to which a condition is attached)

How much is the tax?

In principle, the rate of tax is 3.5%. However, since 1 September 2006, the *Länder* have been entitled to set a different rate.

As a rule, real property transfer tax is calculated on the basis of the consideration paid for the property. This particularly includes any consideration given by the recipient to the person alienating the property or to another person in respect of the transfer of the property. It also covers, for instance, any consideration that third parties give to the person alienating the property for transferring it to the recipient.

In a few special cases, for instance where no consideration is given, or in the case of reorganisation measures, transfers of assets in exchange for stock, or receipts of assets under a partnership's or company's constituting agreement, tax is computed on the real property value (determined in accordance with sections 138 ff. of the Valuation Act).

The competent tax office must be notified of any actions taken that are subject to real property transfer tax. It then determines the amount of tax payable and issues a written notice of assessment. When the tax has been paid, the tax office issues a clearance certificate. This is usually required in order for the new owner's name to be recorded in the land register.

The legal basis is the current version of the Real Property Transfer Tax Act.

Real property transfer tax is collected by the *Länder*, which also receive the revenue. The *Länder* may pass on all or part of the revenue to the municipalities.

The medieval *laudemium* (recognition fee) which the feudal lord demanded as a one-off levy (irrespective of the current ground-rent) from the old and/or the new landowner when a property changed hands may be seen as a historical precedent for the tax on real property transactions in Germany. Another forerunner may have been the *Leitgeld* or *Aufgeld* which from ancient times had served to affirm real property contracts, as for instance the *Litkaufgeld* that emerged as a municipal real property transactions tax in 1374 in Hildesheim and was recorded in similar form as *Kaufschloss* in Emden starting in 1670 and in Danzig from 1777 onwards. Corresponding charges on property changing hands or real property excises emerged in the German territories. From the late 17th century onwards, these were levied increasingly in the form of stamp duties (payable on land sale contracts to which an official seal was affixed).

The tax was generally imposed in the 19th century partly as a government and partly as a local authority charge. Taxation of real property transactions at Reich level came with the 1909 revision of the Reich Stamp Duty Act. Erzberger's financial reform introduced a standardised Real Property Transfer Tax Act throughout the Reich in 1919. The revenue accrued to the Reich, the *Länder* and the municipalities, with frequent variations in the rates of tax and surcharges payable. A revised version of the Act was passed in 1940. This aligned taxation to the contract of sale rather than the transfer of title, a basic concept which was adopted in the corresponding regulations of the *Länder* after 1945. The 1949 Basic Law gave the *Länder* exclusive legislative authority over this tax. However, the 1969 financial reform included a change in the law which gave the Federation a concurrent right to legislate.

What is the legal basis?

Who collects the tax?

How did the tax develop?

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It later became clear, not least from the numerous exemption provisions, that real property transfer tax law had developed in a highly divergent manner in the various *Länder*. This called for standardisation of the law, which was achieved with effect from 1 January 1983 by federal statute. The exemption provisions were repealed with only a few exceptions, and the tax rate was reduced from 7% to 2% at the time to compensate for the elimination of exemptions.

Secondary residence tax

Secondary residence tax is a local tax imposed on secondary residences maintained in the municipality that levies the tax.

The basis for assessing the tax is the annual rent amount or, in the case of owners, the rent that would otherwise normally be payable.

Liability for duty attaches to the person who occupies a secondary residence, regardless of whether this person owns or rents the secondary residence.

The legal bases for imposing secondary residence tax are Article 105 paragraph (2a) of the Basic Law, the *Länder* laws on municipal taxes, and the by-laws of the relevant municipalities.

Secondary residence tax is a local expenditure tax levied by certain municipalities, especially those that serve as tourist centres.

Secondary residence tax is a relatively new tax. The first attempts to impose this type of tax date back to 1972-73, when the municipality of Überlingen (on Lake Constance) adopted the first by-laws introducing a secondary residence tax in summer 1972. This example was followed by other municipalities where, as a result of new leisure habits and increasing affluence, large numbers of secondary residences had been built (e.g., in apartment blocks or holiday home resorts). The aim of such secondary residence taxes was to offset the additional financial burdens incurred by municipalities as a result of these developments. The tax has been the subject of repeated judicial review over the subsequent years. The Federal Constitutional Court's December 1983 decision on the "Überlingen model" (file no. 2 BvR 1275/79) found that, when appropriately imposed, secondary residence tax is a legally admissible local expenditure tax.

What is the tax payable on?

How much is the tax?

Who is liable for tax?

What is the legal basis?

Who collects the tax?

How did the tax develop?

Solidarity surcharge

Since 1 January 1995, on the basis of the Act Implementing the Federal Consolidation Programme of 23 June 1993 (Federal Law Gazette I, p. 944), a general surcharge has been levied on > income tax, > wages tax, > capital yields tax, > final withholding tax (as of 1 January 2009) and > corporation tax for the purpose of financing German unification. This surcharge also applies to withholding taxes on income of non-residents.

In principle, the surcharge is imposed uniformly on all taxpayers in accordance with their capacity to pay. It is imposed only when the basis for tax assessment (less child tax allowances) exceeds the following thresholds:

- income tax under the basic income tax table: €972
- income tax under the income tax table for the splitting system for spouses: €1,944

When income tax exceeds these exemption thresholds, the solidarity surcharge is not immediately imposed in full. Rather, the law stipulates that the surcharge be imposed in accordance with a transitional scale.

The solidarity surcharge is levied at a rate of 5.5% of the applicable > income and > corporation tax (which constitutes its tax base).

The surcharge on > corporation tax is assessed on the corporation tax liability less any creditable or refunded corporation tax, where the result is a positive amount.

The solidarity surcharge is calculated using the amount of > income and > wages tax that would be assessed or withheld, taking into account child tax-free allowances, even in cases when child benefits are determined to be more beneficial than child tax-free allowances and the amount of taxable income is not reduced as a result.

Where > income tax or > corporation tax prepayments must be made for the 1995 tax year onwards, such prepayments constitute the basis for assessing the solidarity surcharge. If > income tax is withheld at source (> wages tax, > withholding tax on income from capital, > final

What is the surcharge levied on?

Who is liable for the surcharge?

How much is the surcharge?

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withholding tax (as of 1 January 2009), and > withholding tax on income of non-residents), the basis of assessment is the tax amount withheld.

Solidarity surcharge retained at source is allowed as a credit in the assessment of > income and > corporation tax.

No time limit has been placed on the imposition of the solidarity surcharge.

The legal basis for assessing and imposing the surcharge is the Solidarity Surcharge Act of 1995 as published on 15 October 2002 (Federal Law Gazette I, p. 4131) and most recently amended by the Growth Acceleration Act of 22 December 2009 (Federal Law Gazette I, p. 3950). The solidarity surcharge is levied as a surtax in accordance with Article 106 paragraph (1) number 6 of the Basic Law. The solidarity surcharge is administered by the *Länder*, and the revenue accrues to the Federation.

Sparkling wine duty

Sparkling wine duty is an > excise duty regulated by federal statute. The law defines dutiable “sparkling wine” by reference to specific headings in the Combined Nomenclature (CN).

Dutiable sparkling wine comprises sparkling wines contained in bottles with sparkling wine stoppers held in place by special ties or fastenings, as well as sparkling wines that at +20°C have an excess pressure, due to carbon dioxide in solution, of 3 bar or more and that fall under CN headings 2204, 2205 or 2206 in terms of alcoholic strength and composition.

The alcoholic strength by volume must be at least 1.2% and must be no higher than 15%. Furthermore, where the alcoholic strength by volume totals 13%-15%, the alcohol content must originate entirely through fermentation.

If the duty originates from the withdrawal of sparkling wine from a tax warehouse or from the consumption of sparkling wine therein, liability attaches to the tax warehouse keeper, regardless of whether the duty originated as a result of actions by the warehouse keeper himself or whether it originated without his knowledge or even against his will

What is the legal basis?

What is the duty payable on?

Who is liable for duty?

(e.g., due to unlawful withdrawal such as theft, in which case additional persons would become liable for duty).

However, if sparkling wine is produced without the necessary permission from the main customs office, the duty originates upon production. In this case, the producer and all persons involved in the production process are liable for duty.

If sparkling wine is released from a tax warehouse to persons who do not possess valid authorisation to use the sparkling wine commercially and free of duty, both the tax warehouse keeper as well as any such unauthorised persons are liable for duty.

If irregularities in the movement of sparkling wine occur while a duty suspension arrangement is in place, liability for duty attaches to the tax warehouse keeper as consigner, the registered consigner, and any other persons involved in such irregularities.

The duty amounts to €136 per hectolitre. The duty on sparkling wine with an actual alcoholic strength by volume of less than 6% is €51 per hectolitre.

Exemption from duty

Sparkling wine is exempt from duty in certain cases, e.g.:

- when it is used either inside or outside a tax warehouse as a sample for analysis and testing that is required for operational reasons, or when it is withdrawn for inspections by the tax or trade authorities
- when it is used inside the tax warehouse to produce beverages that are not subject to sparkling wine duty
- when it is presented to the competent authorities for quality control purposes or withdrawn at the instigation of these authorities

The legal basis for imposing sparkling wine duty is the Sparkling Wine and Intermediate Products Duty Act of 15 July 2009 (Federal Law Gazette I, p. 1870).

Sparkling wine duty is collected by federal revenue authorities (specifically, the customs administration). The revenue accrues to the Federation.

How much is the duty?

What is the legal basis?

Who collects the duty?

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How did the duty develop?

Sparkling wine duty was introduced in 1902 as a new source of government revenue to meet the rising financial needs of armed forces. However, the Sparkling Wine Duty Act of 9 May 1902 was rescinded in 1933 as a measure to help fight the effects of the world-wide depression. Sparkling wine duty was reintroduced in 1939 as a war surcharge under the War Economy Ordinance of 4 September 1939. Following revocation of this surcharge in 1952, legislation introducing a sparkling wine duty (the Sparkling Wine Duty Act of 23 October 1952) then took effect. Upon completion of the European internal market as of 1 January 1993, the Sparkling Wine Duty Act of 1952 was then succeeded by the Sparkling Wine and Intermediate Products Duty Act. This Act, which took effect on 1 April 2010, currently serves as the basis for collecting sparkling wine duty.

Spirits duty

What is the duty payable on?

Spirits duty is an > excise duty regulated by federal statute. The law defines dutiable spirits and spirituous products by making reference to specific headings in the Combined Nomenclature (CN).

In particular, this comprises:

- ethyl alcohol of any strength, whether denatured or undenatured, other spirituous beverages with an alcoholic strength by volume exceeding 1.2% (CN headings 2207 and 2208)
- other beverages with an alcoholic strength by volume exceeding 22% and mixtures of such, each with an alcoholic strength by volume exceeding 22% (CN headings 2204, 2205 and 2206)

Who is liable for duty?

If the duty originates from the withdrawal of products from a tax warehouse or from the consumption of the products therein, liability attaches to the tax warehouse keeper, regardless of whether the duty originated as a result of actions by the warehouse keeper himself or whether it originated without his knowledge or even against his will (e.g., in the case of theft from the producer).

If the duty originates when products are removed from a duty suspension arrangement for the purpose of entering the commercial operations of a registered consignee, duty attaches to the registered consignee.

In the case of spirits produced by small-scale flat-rate distilleries, the producer is liable for the duty.

If irregularities in the movement of spirits occur while a duty suspension arrangement is in place, liability for duty attaches to the tax warehouse keeper as consigner, the registered consigner, and any other persons involved in such irregularities.

Tax relief

The system of standard yield rates for production in the case of distillery owners and distillery users means that both are generally entitled to excess yields of alcohol on which they do not have to pay any duty. This applies to the processing of fruit mashes and the production of spirits from mealy products.

Tax relief is also granted to small-scale flat-rate distilleries and distillery users. Diverging from the standard rate of €1,303/100l alcohol, the duty was reduced to €1,022/100l of alcohol. This results in a reduction of €140.50 in the case of processing, for instance, 1,000l of cherry products.

If goods are imported that can be produced domestically using duty-free alcohol, such goods will also be exempted from duty. Alcohol (excluding spirits from small-scale flat-rate distilleries) may be transported under duty suspension arrangements (to other tax warehouses) within the EU or exported out of the fiscal territory of the EU.

The standard rate of duty is €1,303 per hectolitre of alcohol.

There are tax exemptions (as specified in law) for specific purposes, such as the commercial production of:

- cosmetic products
- medicines
- foodstuffs (excluding beverages), aromas and vinegar
- heating and cleaning products for purposes other than manufacturing

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What is the legal basis?

The duty on spirits is regulated by the Spirits Monopoly Act of 8 April 1922 (Reich Law Gazette I, p. 405), in the version published in Federal Law Gazette III, no. 612-7, most recently amended by Article 2 of the Sixth Act Amending the Excise Duty Acts of 16 June 2011 (Federal Law Gazette I, p. 1090). The Spirits Monopoly Act covers both the taxation of spirits and the spirits monopoly as well.

Who collects the duty?

Spirits duty is collected by federal revenue authorities (specifically, the customs administration). The revenue accrues to the Federation.

Spirits duty is one of the duties harmonised with the EU with effect from 1 January 1993.

Spirits monopoly

How did the spirits monopoly develop?

As the consumption of spirits became more widespread in Germany and other countries towards the end of the 15th century, they were soon added to the beverages on which towns and territories levied taxes (under the name of *Ungeld* or *Akzisen* or in the form of gate tolls and purveyance charges). Under the territorial excise regulations of the 17th and 18th centuries, duty was levied variously on the sale, on the raw materials or on the equipment used in production. In the course of the Stein-Hardenberg reforms in Prussia, the mash-volume duty was ultimately adopted and subsequently formed the basis for the North German Spirits Duty Association, which came under Reich jurisdiction starting in 1871.

Spirits duty was made subject to new arrangements in a Reich statute of 1887 which was also adopted by Bavaria, Württemberg and Baden and was reformed in 1909. For some time this duty was the most productive of all the taxes imposed by the Reich, but although the revenue accrued to the Reich it had to be remitted to the constituent states in proportion to their matricular contributions. The attempts to set up a Reich spirits monopoly that had been underway since 1886 finally succeeded at the end of the First World War. The Reich Act on the Spirits Monopoly of 26 July 1918 established a state monopoly with effect from 1 October 1919, originally with the aim of furthering agriculture by promoting the use of farm produce in agricultural distilleries. The Basic Law of 1949 assigned spirits duty and the fiscal monopoly to the Federation. The Treaty on German Unification extended the spirits monopoly and the imposition of spirits duty to the new *Länder*.

As a rule, alcohol produced in the territory covered by the monopoly must be delivered to the Federal Spirits Monopoly Administration in Offenbach am Main – a higher federal authority charged with implementing the monopoly. Alcohol distilled from grain, fruit, wine and materials other than agricultural produce is exempt from this requirement. In other cases, the Administration may exempt producers on application. The Administration rectifies the spirits thus obtained and sells them to commercial buyers as neutral alcohol.

The Spirits Monopoly Act has been extensively amended by the Budget Consolidation Act. The spirits monopoly now focuses on promoting distilleries linked to agricultural family businesses. Commercial distilleries, which have hitherto been covered by the spirits monopoly in order to protect agricultural distilleries, have no longer been part of the spirits monopoly since the end of the 2005–2006 operating year at the latest. The vast majority of these distilleries had already voluntarily exited the monopoly with compensation. Commercial distilleries linked to agricultural family business were converted into agricultural distilleries.

With effect from 1 January 2004 a common EU market came into effect for alcohol from agricultural raw materials. The aim is to monitor trade in agricultural alcohol in the EU and make the alcohol market more transparent.

It includes a temporary exemption for the granting of production-based state aid under the German spirits monopoly.

What is the legal basis?

The EU Council of Ministers and the European Parliament officially adopted the final extension to exemptions for aid granted within the framework of the German spirits monopoly via Regulation (EU) No 1234/2010 of 15 December 2010 (OJ L 346/11, 30/12/2010). Under this Regulation, agricultural bonded distilleries (*landwirtschaftliche Verschlussbrennereien*) may continue to produce alcohol under the spirits monopoly and deliver it to the Federal Spirits Monopoly Administration until the end of 2013. In the case of small-scale, flat-rate distilleries (*Abfindungsbrennereien*), distillery users (*Stoffbesitzer*) and fruit cooperative distilleries (*Obstgemeinschaftsbrennereien*), the period expires at the end of 2017.

The spirits monopoly expires at midnight on 31 December 2017.

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Tax identification number

What is the tax identification number?

The tax identification number system replaces the former system of tax numbers. Previously, a new tax number had to be issued when a taxable person changed his/her place of residence from one German *Land* to another. In contrast, a tax identification number issued under the new system is permanent. During the current transition period, both the old tax numbers and the new tax identification numbers will continue to be used in parallel.

Who receives a tax identification number?

Every person born or domiciled in Germany receives a tax identification number in order to ensure unambiguous identifiability in connection with taxation procedures. Revenue authorities use the identification number in order to carry out taxation procedures. Third parties may record and use identification numbers solely for the purpose of transmitting data to the revenue authorities. The Federal Central Tax Office's Tax Information Centre offers detailed information on the tax identification number system (in German) online at www.identifikationsmerkmal.de.

What is the legal basis?

Rules on the issuance and use of tax identification numbers are laid down in sections 139a and 139b of Fiscal Code.

Who issues the tax identification number?

Tax identification numbers are issued by the Federal Central Tax Office on the basis of information provided by the registration authorities.

How did the identification number develop?

The tax identification number forms part of the Federal Government's e-government strategy. The 2003 Tax Amendment Act (Federal Law Gazette I, p. 2645) created the legal basis for introducing tax identification numbers. The Federal Central Tax Office has been issuing the new tax identification numbers since 1 August 2008. The new numbers will help modernise Germany's procedure for taxing wages, which dates back to the 1920s. They will also make it easier for revenue authorities to engage in the electronic exchange of information at the international level (e.g., for interest payments), thereby enhancing the equality of tax treatment.

Taxes on income, property and transactions

Taxes on income and property are imposed on returns/income (> income tax) or property (> inheritance tax). Transactions taxes are taxes linked to legal and commercial transactions.

Taxes are assigned to these categories as follows:

Income:

- income tax (including wages tax and withholding tax on income from capital)
- corporation tax
- solidarity surcharge
- trade tax
- church tax (in part)

Property:

- inheritance tax
- real property tax
- church tax (in part)

Transactions:

- VAT (excluding import VAT)
- real property transfer tax
- motor vehicle tax
- aviation tax
- betting and lottery tax
- gaming casinos levy
- insurance tax
- fire protection tax

What is the tax payable on?

T

Tobacco duty

Tobacco duty is an > excise duty regulated by federal statute.

Duty is payable on tobacco products (cigars, cigarillos, cigarettes and smoking tobacco) as well as equivalent products comprised wholly or partly of materials other than tobacco.

If the duty originates from the withdrawal of tobacco products from a tax warehouse or from the consumption of tobacco products therein, liability attaches to the tax warehouse keeper, regardless of whether the duty originated as a result of actions by the warehouse keeper himself or whether it originated without his knowledge or even against his will. In addition, duty attaches to persons who unlawfully withdraw tobacco products from a tax warehouse (e.g., by theft), persons on whose behalf such products were unlawfully withdrawn, and persons who participate in such unlawful withdrawals.

If the duty originates when tobacco products are removed from a duty suspension arrangement for the purpose of entering the commercial operations of a registered consignee, duty attaches to the registered consignee.

If tobacco products are produced without the necessary permission from the main customs office, the duty originates upon production. In this case, the producer and all persons involved in the production process are liable for duty.

Tobacco duty is determined on the basis of both the quantity and the value of the excisable good.

The Tobacco Duty Act stipulates that the following information is needed in order to calculate tobacco duty:

- volume, either in units (for cigarettes, cigars and cigarillos) or in kilograms (smoking tobacco)
- the retail sales price

What is the duty payable on?

Who is liable for duty?

How much is the duty?

The retail sales price is the price per unit for cigars, cigarillos and cigarettes or the price per kilogram for smoking tobacco, as determined by the producer or importer. This is often simply the price per packet, which must be denominated in whole euros and cents. In this case, the retail sales price is derived from the packet price and the packet content per unit or kilogram.

Tobacco products in packets containing the same quantity and sold under the same brand name or corresponding designation are assigned the same retail sales price. A producer domiciled in another member state may confer the authority to determine the retail sales price to a person resident in German fiscal territory who is authorised to procure duty-suspended tobacco products from other member states.

The duty rates are as follows:

■ For cigarettes:

- > 8.27 cents per unit and 24.66 per cent of the retail sales price, resulting in at least 17.586 cents per unit less VAT on the retail sales price of the dutiable cigarette or a maximum of 14.370 cents per unit
- > for the period 1 May 2011 – 31 December 2011: 9.08 cents per unit and 21.94 per cent of the retail sales price, resulting in at least 18.156 cents per unit less VAT on the retail sales price of the dutiable cigarette
- > for the period 1 January 2012 – 31 December 2012: 9.26 cents per unit and 21.87 per cent of the retail sales price, resulting in at least 18.518 cents per unit less VAT on the retail sales price of the dutiable cigarette
- > for the period 1 January 2013 – 31 December 2013: 9.44 cents per unit and 21.80 per cent of the retail sales price, resulting in at least 18.881 cents per unit less VAT on the retail sales price of the dutiable cigarette
- > for the period 1 January 2014 – 31 December 2014: 9.63 cents per unit and 21.74 per cent of the retail sales price, resulting in at least 19.259 cents per unit less VAT on the retail sales price of the dutiable cigarette
- > for the period 1 January 2015 – 14 February 2016: 9.82 cents per unit and 21.69 per cent of the retail sales price, resulting in at least 19.636 cents per unit less VAT on the retail sales price of the dutiable cigarette

T

- For cigars and cigarillos:
 - > 1.4 cents per unit and 1.47 per cent of the retail sales price
 - > for the period 1 May 2011 – 31 December 2011: at least 4.888 cents per unit less VAT on the retail sales price of the dutiable cigar or cigarillo
 - > from 1 January 2012 onwards: at least 5.76 cents per unit less VAT on the retail sales price of the dutiable cigar or cigarillo

- For fine-cut tobacco:
 - > €34.06 per kilogram and 18.57 per cent of the retail sales price, resulting in at least €53.28 per kilogram
 - > for the period 1 May 2011 – 31 December 2011: €41.65 per kilogram and 14.30 per cent of the retail sales price, resulting in at least €81.63 per kilogram less VAT on the retail sales price of the dutiable fine-cut tobacco
 - > for the period 1 January 2012 – 31 December 2012: €43.31 per kilogram and 14.41 per cent of the retail sales price, resulting in at least €84.89 per kilogram less VAT on the retail sales price of the dutiable fine-cut tobacco
 - > for the period 1 January 2013 – 31 December 2013: €45.00 per kilogram and 14.51 per cent of the retail sales price, resulting in at least €88.20 per kilogram less VAT on the retail sales price of the dutiable fine-cut tobacco
 - > for the period 1 January 2014 – 31 December 2014: €46.75 per kilogram and 14.63 per cent of the retail sales price, resulting in at least €91.63 per kilogram less VAT on the retail sales price of the dutiable fine-cut tobacco
 - > for the period 1 January 2015 – 14 February 2016: €48.49 per kilogram and 14.76 per cent of the retail sales price, resulting in at least €95.04 per kilogram less VAT on the retail sales price of the dutiable fine-cut tobacco

- For pipe tobacco:
 - > €15.66 per kilogram and 13.13 per cent of the retail sales price, resulting in at least €22.00 per kilogram

Duty exemptions and relief

In certain cases, the Tobacco Duty Act provides for

- duty exemptions, for example on tobacco products used for official or scientific testing and on cost-free benefits in kind
- reimbursement of duty for taxed tobacco products taken into a tax warehouse

Special provisions

Along with rules governing fiscal supervision of the production and sale of tobacco products, the Tobacco Duty Act contains additional special provisions to secure the state's tax claims. These include provisions that:

- permit tobacco products to be withdrawn from tax warehouses only in fully sealed, ready-for-sale retail packets, which may be opened by retailers only under specific conditions
- prohibit manufacturers from adding to retail packages any objects intended to be given to consumers free of charge
- generally prohibit retailers of tobacco products from granting discounts on the sale of tobacco products to consumers or giving away objects free of charge in connection with a sale
- prohibit the sale of tobacco products from being linked to the sale of other goods
- prohibit the sale of tobacco products to consumers at a price lower than the retail or packet price displayed on the excise stamp
- prohibit the sale of tobacco products at a price higher than the retail or package price displayed on the excise stamp

The legal basis for imposing tobacco duty is the Tobacco Duty Act of 15 July 2009 (Federal Law Gazette I, p. 1870).

With few exceptions, tobacco duty is remitted through the use of excise stamps – i.e., by attaching cancelled stamps to retail packets – rather than through direct payment of the duty amount. Producers and importers of tobacco products purchase excise stamps from the central excise stamp agency located in the city of Bünde. Payment for the

What is the legal basis?

Who collects the duty?

T

How did the duty develop?

stamps does not have to be made immediately but rather must occur within specific deadlines in accordance with the liability amount. Tobacco duty is collected by the federal revenue authorities (specifically, the customs administration), and the revenue accrues to the Federation.

When tobacco consumption spread rapidly through Germany during the Thirty Years' War, attempts were initially made to stem it by imposing state-wide bans (as in Bavaria in 1652). However, from the late 17th century onwards, this policy shifted toward the practice of deriving state revenue from domestic uncured tobacco by creating state monopolies or imposing luxury taxes (i.e., tobacco excises). In 1819, Prussia introduced a weight-based duty on tobacco leaves, which was replaced in 1828 with a duty based on surface area. This latter duty became the basis for a "tobacco duty confederation" with several northern and central German states, which was then expanded to encompass the entirety of the German Customs Union in 1868. In 1871, the authority to impose tobacco duty was transferred to the Reich. After Bismarck's repeated attempts to introduce a Reich tobacco monopoly failed, a weight-based tobacco duty was introduced in 1879. A manufacturing tax on cigarettes was added in 1906, which was based on the retail sales price of cigarettes and took the form of a *banderole* tax. This system was expanded in subsequent laws enacted in 1919, 1939 and 1953. Since 1949, the former Reich duty has been levied by the Federation. Germany overhauled its legal provisions on tobacco duty in 1971 in order to simplify the law, adapt it to changing economic conditions, and bring Germany's system of taxing cigarettes into line with EU legislation. The 1980 Tobacco Duty Act laid down the definitions of tobacco products in accordance with Community law. Tobacco duty has a similar and considerable level of economic and fiscal significance in all EU member states.

Harmonisation of tobacco duty within the EU was initiated by Council directives in 1972 and further advanced by the establishment of the single market as of 1 January 1993.

Trade tax

Trade tax is directed at businesses and their real earning capacity. As a non-personal tax, it is charged on the earnings generated by a business, irrespective of the personal circumstances of any of the business owners. This sets trade tax apart from personal taxes such as > income tax or > corporation tax, which are linked to the existence or economic performance of a natural or legal person. The tax is thus imposed on an object, namely the business operation.

All businesses that operate in Germany are liable to trade tax. Businesses are deemed to operate in Germany if they have a permanent establishment in the country. Businesses (within the meaning of the Income Tax Act) include, for example, sole traders and commercial partnerships. The activities of a corporation always count fully as business operations.

Agricultural and forestry businesses, as well as freelance work and other forms of self-employment, are not subject to trade tax.

The tax is levied on business profits. For trade tax purposes, this means the profits of a business as determined under the Income Tax Act or Corporation Tax Act. The profits thus determined are increased or decreased by certain adjustments. These adjustments have a dual purpose, namely to take account of the nature of trade tax as a tax on an object and to prevent double taxation of the same income under both trade tax and > real property tax.

Tax liability attaches to the business entity on whose account the business is carried out. This may be a sole trader or a corporation. If a partnership is engaged in commercial activity, then it is the partnership itself that is liable for the tax.

As part of their personal tax assessment, sole traders and partners in a commercial partnership can claim a credit against their income tax liability reflecting the trade tax they have paid.

The computation of trade tax starts with what is termed the 'base tax amount'. This is obtained by multiplying the business profits by 3.5% (the basic tax rate). Individuals and partnerships qualify for a tax-free allowance of €24,500. The tax office is responsible for determining the tax bases and for assessing and dividing up the base tax amount.

What is the tax payable on?

How much is the tax?

T

The municipalities in which the permanent establishments carrying out the business are maintained have the right to impose the tax. If a business maintains establishments in several municipalities during the period for which the tax is collected (calendar year), the base tax amount must be divided among them. The wages paid by the business are generally taken as a yardstick for the dividing-up process.

Trade tax is collected by the municipalities, which calculate the tax due by applying a multiplier to the base tax amount (or if this has been divided up, to their allocated share). The municipality with the right to impose tax stipulates this multiplier. It must be at least 200%.

Taxation is imposed on the basis of the current versions of the Trade Tax Act and the Trade Tax Implementing Ordinance. In addition, trade tax guidelines in the form of general administrative regulations have been issued to clarify uncertainties and points calling for interpretation.

Trade tax is a municipal tax collected by the local authorities. It is their most important direct source of revenue for expenditure on public services.

The Federal Government and the *Länder* also receive a share of trade tax revenue by way of apportionments.

The flourishing development of trades and crafts in medieval towns also led to the imposition of the first levies on trade in Germany, some of which took the form of market fees, surcharges on commercial goods or special taxes on certain classes of traders. As modern-era territorial states emerged, the imposition of extraordinary and in some cases regular territorial taxes on businesses became increasingly commonplace from the 17th century onwards. In the process the older taxes on property were gradually transformed into taxes on earnings specifically charged on land, buildings and finally on trade. New tax laws were drawn up accordingly in the 19th century (for example, in 1808 in Bavaria, 1810/1820 in Prussia, 1815 in Baden, 1821 in Württemberg, 1827 in Hesse). A pioneering achievement in the further development of the tax was the Prussian tax reform under finance minister Miquel. As part of this, the Trade Tax Act of 1891 was passed, which included both business profits and business capital in the tax base. In the same context, the 1893 Act on Municipal Levies transformed the state tax into a local authority tax. The Reich financial

What is the legal basis?

Who collects the tax?

How did the tax develop?

reform of 1919/1920 assigned trade tax to the individual states, which were entitled as necessary to claim the revenue themselves or allocate it to the municipalities. The 1936 reform of non-personal taxes set up a uniform Trade Tax Act on the Prussian system for the Reich as a whole. Business profits and business capital were established as generally binding tax bases, whilst payroll taxation was made optional and the entitlement to tax was assigned to the municipalities without involving the *Länder*.

The Basic Law enacted in Bonn in 1949 gave the Federation concurrent power to legislate on trade tax. The Trade Tax Act adopted in 1950 for the whole of the Federal Republic of Germany has subsequently been through several amendments, for instance in 1967 when for constitutional reasons it became necessary to abolish the branch tax on retail trade businesses and the supra-local establishments of banks and credit institutions. The reform of local authority finances obliged the municipalities as from 1970 to pass on part of the revenue from trade tax to the Federation and the *Länder* in the form of apportionments. To compensate for this, the municipalities were assigned a much larger share (namely 14%) of the revenue from > wages tax and assessed income tax. The 1979 Tax Amendment Act reduced the trade tax apportionment by one third as from 1 January 1980 and increased the municipalities' share of the revenue from wages tax and assessed income tax to 15%. The optional imposition of payroll tax was abolished as from 1 January 1980. To offset the shortfalls in tax revenue resulting from changes in income attribution arrangements the trade tax apportionment was reduced by a further 28% as from 1983 and by a total of 35% from 1984 onwards.

Trade tax on business capital was abolished as from 1 January 1998 under the reform of corporate taxation. To compensate the municipalities for their resulting loss in revenue, they were given a 2.2% share of VAT revenue. Article 28 and Article 106 of the Basic Law were amended to safeguard the municipalities' entitlement to a share of VAT revenue and to the revenue from trade tax.

The 2008 Business Tax Reform Act increased the extent to which financing costs are attributed to income and abolished the deductibility of trade tax as a business expense when calculating profits for tax purposes. In return, the basic tax rate was cut from 5% to a uniform 3.5%. Furthermore, partnerships' entitlement to credit trade tax paid against their income tax liability was increased.

V

VAT

What is the tax payable on?

Under the tax system, value added tax (VAT) is classified among the taxes on income, property and transactions (with the exception of > import VAT). VAT operates in the same way as a general > excise duty and is chargeable in principle on all public and private consumption (i.e., goods and services purchased by final consumers). In this respect, it differs from > income tax and > wages tax, which take into account the individual taxpayer's ability to pay taxes.

VAT cannot have a cumulative effect, i.e., there can be no tax on tax. This is achieved by making input VAT deductible. In other words, a business can reclaim the input taxes charged by suppliers against the VAT it owes on its own turnover. Additional input taxes that may be deducted include (i) VAT paid on intra-Community acquisitions (acquisition tax), (ii) VAT payable by someone acting as recipient within the framework of the reverse charge system and (iii) > import VAT paid to customs offices on imports from non-EU countries.

This can be illustrated using a schematic example that follows a product through several commercial transactions until it reaches the final consumer: Supplier A sells goods to Supplier B for €100 plus VAT of €19 (19% of €100). For this transaction, Supplier A pays VAT of €19 to the tax office, while Supplier B deducts the same amount from her taxes as input VAT. If Supplier B sells the goods to Supplier C for €140 plus VAT of €26.60 (19% of €140), Supplier B pays VAT of €26.60 to the tax office while Supplier C deducts this amount as input tax. If Supplier C then sells the goods to a final consumer for €200 plus VAT of €38 (19% of €200), he is required to pay VAT of €38 to the tax office. This is the final amount retained by the tax authorities. This example shows that revenue from VAT is realised only through sale to a final consumer.

If goods spoil or for other reasons remain unsold to a final consumer, no revenue is generated for the exchequer.

Who is liable for tax?

As a tax on consumption, VAT is designed so that the cost is ultimately borne by consumers. However, it would not be technically feasible to collect VAT from consumers. For this reason, tax liability attaches to businesses realising taxable turnover, who pass VAT on to their customers by including it in the prices they charge. Businesses usually indicate this by listing VAT separately on invoices for taxable

sales, and they are required to do so on invoices to other businesses and legal persons. The same is true for the taxable supply of work and/or materials or other services connected with immovable property. VAT is classified as an indirect tax because it is collected from consumers via the intermediary of the supplier charging VAT.

In practice, of course, the commercial activities of basically every business involve multiple inputs and taxable transactions. Businesses offset their input VAT against their output VAT within the framework of provisional returns submitted on a monthly or quarterly basis. For example, if a business realises total taxable turnover of €100,000 (subject to VAT at a rate of 19%) during a specific provisional return period and has paid input VAT totalling €10,200 on goods and services purchased during the same period, the total VAT owed by the business for that tax period is computed as follows:

■ total taxable turnover:	€100,000
■ plus 19% VAT:	€19,000
■ less deductible input VAT:	€10,200
■ VAT payable to the tax office:	€8,800

Only businesses are entitled to deduct input VAT. In order to have the right to deduct input VAT, businesses are not required to supply goods or services, be domiciled, or operate a production site in Germany. For this reason, non-resident businesses with no turnover in Germany may apply for regular input tax refunds under a special refund arrangement (specifically, the input tax refund procedure).

However, input tax is deductible only if it applies to goods and services sold for use by the business. Tax charged to a business for goods intended exclusively for personal use (e.g., a private television set) is not deductible as input tax. If an asset (such as a computer) is used both for business and private purposes, input tax is generally deductible in its entirety, but the private use is subject to VAT as goods or services supplied free of charge. As of 1 January 2011, new rules apply for mixed-use immovable property, i.e., immovable property that is used for both business and private non-business purposes. Under these new rules, VAT on purchases connected to non-business use of such property is not deductible as input tax. In these cases, however, such purchases are also exempt from taxation as goods or services supplied free of charge.

V

Businesses selling goods and services that are exempt from VAT are not entitled to deduct input tax charged to them in connection with such supplies. Intra-Community supplies and exports to non-EU countries are excepted from this rule. Providing for the deductibility of input tax connected to VAT-exempt intra-Community supplies and exports allows these goods to cross the frontier free of any VAT burden. This rule is necessary to ensure the competitiveness of German products on world markets and conforms to the country-of-destination principle generally applicable within the EU, under which VAT is to be paid in the country where the goods or services are purchased. Input tax is also deductible for other VAT-exempt supplies of goods and services, particularly certain supplies related to import, export and transit goods as well as certain supplies connected to shipping and aviation.

Businesses with both (i) taxable turnover and (ii) tax-exempt turnover with no input tax deductibility must separate deductible from non-deductible input tax.

In general, liability for VAT attaches to the business. The term 'business' is defined by law as any person who engages independently in trade, commercial or professional activity.

The following activities are subject to VAT:

- supplies of goods and services
- imports (> import VAT)
- intra-Community acquisitions

Within 10 days after the end of each calendar quarter, businesses are required to file an electronic provisional return that states their self-assessed tax liability for the elapsed quarter. This amount must then be remitted to the tax office as a prepayment. Businesses with high tax burdens in the previous year must file provisional returns on a monthly basis. Businesses newly entering a commercial or professional activity must also file monthly provisional returns for the first two calendar years of business activity. Businesses that had a low tax burden or that received a refund in the previous year may be exempted from submitting provisional returns.

At the end of each calendar year, businesses are required to submit a tax return that states their self-assessed tax liability for the elapsed calendar year. This return is equivalent to a final assessment subject to subsequent review by the tax authorities. The tax office issues an official tax assessment notice only in cases when its calculation differs from the taxpayer's self-assessment.

In accordance with the VAT Competency Ordinance, the collection of VAT from non-resident businesses liable for tax is administered by certain designated tax offices or by the Federal Central Tax Office.

Do you have questions about which tax office to turn to? You can call the Federal Central Tax Office's Tax Information Centre at +49 (0)228-406-1200 for more information.

The VAT Act provides an extensive list of VAT-exempt goods and services. One category covers turnover for which input tax remains deductible. This includes, in particular, exports to non-EU countries and intra-Community supplies; certain supplies connected to shipping and aviation; and certain supplies related to import, export and transit goods. The second category covers turnover for which input tax may not be deducted. This includes the extension of credit; sales and rental of immovable property; services provided by doctors and other medical professionals; certain services provided by statutory social insurance funds; services provided by most hospitals and rehabilitation centres; services provided to persons in need of assistance or care; turnover realised by registered blind persons; services provided by officially recognised voluntary welfare organisations; educational services; services provided by certain theatres, orchestras, museums and zoos; and youth welfare services.

Businesses resident in Germany, in a free zone or in certain coastal water regions whose turnover (excluding VAT payable thereon) did not exceed €17,500 in the previous calendar year and is not expected to exceed €50,000 in the current calendar year (i.e., small businesses) are not required to pay VAT.

However, these small businesses are not entitled to deduct input tax charged to them. They are also not allowed to issue invoices showing a separate amount for tax. Because small businesses are not entitled to deduct input tax, this arrangement may have an unfavourable impact on their economic situation. For this reason, the law provides them

with the option of waiving this special arrangement and paying tax in accordance with the general provisions under tax law. A waiver declaration is binding for five years.

Businesses whose previous year's turnover (excluding VAT payable thereon) exceeded €17,500 are required, without exception, to pay tax in accordance with the general provisions. Consequently, they are entitled to deduct input tax and must issue invoices showing a separate amount for tax. The same applies to businesses whose turnover did not exceed the €17,500 threshold in the previous year but is expected to exceed €50,000 (excluding VAT payable thereon) in the current calendar year.

In cases where non-resident businesses provide taxable supplies of work and/or materials or other taxable services in Germany, VAT is generally payable by the customer if the latter is a business or legal person (this is referred to as the reverse charge system). This also applies to taxable supplies of goods as collateral by the grantor of a security interest to the secured party outside insolvency proceedings, as well as to:

- turnover that falls under the scope of the Real Property Transfer Tax Act
- certain construction services to businesses who themselves provide construction services
- supplies of gas, electricity, heat and cooling
- trade in emissions allowances
- certain sales of investment gold, industrial scrap, scrap metal and other waste
- the cleaning of buildings or parts thereof, when the recipients themselves provide these kinds of services
- the supply of mobile telephones as well as certain integrated circuits, if the sum of billable charges within the framework of a business transaction amounts to at least €5,000

In order to ensure correct observance of the country of destination principle generally applying within the EU, businesses taking part in intra-Community trade are given a VAT identification number. This number is issued by the Saarlouis branch of the Federal Central Tax Office upon submission of an application. Applications may be made by

telephone (+49 (0)228 406-1222), online (www.BZSt.de), or in writing. Issuance of a VAT identification number is conditional upon VAT registration with the competent German tax office. Furthermore, in accordance with section 18 of the VAT Act, businesses are required to file recapitulative statements on their tax-exempt intra-Community supplies of goods and services and/or supplies within the framework of triangular transactions (section 25b subsection (2) of the VAT Act).

There are several different tax rates under the VAT Act: the general rate (19%), the reduced rate (7%), and special rates for farmers and foresters (5.5% and 10.7%).

Most turnover is taxed at the general rate.

The reduced rate applies in particular to supplies, imports and intra-Community acquisitions of almost all foodstuffs, with the exception of beverages and food service activities. The reduced rate also applies, for example, to public transport; to sales of books, newspapers/periodicals and certain art objects; and to accommodation services.

In general, VAT is determined on the basis of the agreed payment amount (i.e., on an accrual basis). This means that the liability for tax occurs when the supply of goods or services takes place, not when the consideration for such supply is ultimately collected. Likewise, businesses may deduct input tax during the assessment period in which an invoice showing a separate VAT amount is received, provided the taxable goods or services have already been supplied. In cases when down-payments are made before the supply is realised, liability for tax occurs upon receipt of the down-payment. Accordingly, the customer may deduct as input tax the VAT charged on the down-payment as soon as the down-payment has been made. Because taxation on an accrual basis can cause difficulties for small and medium-sized businesses, the law also permits certain businesses to apply for taxation on the basis of payments received (i.e., on a cash basis). This does not change the rules regarding the period during which input tax may be deducted, however.

How much is
the tax?

V

What is the legal basis?

The legal bases for imposing VAT are the current versions of the VAT Act; the VAT Implementing Ordinance; the “Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax”, which entered into force on 1 July 2011 and replaced Implementation Regulation No 1777/2005 of 17 October 2005; and the Import VAT Exemption Ordinance. The VAT Application Ordinance, which took effect on 1 November 2010 and replaced the 2008 VAT Guidelines, provides revenue authorities with instructions on how to interpret VAT law.

Who collects the tax?

VAT is administered by the *Länder* on behalf of the Federation, and the revenue accrues jointly to the Federation and the *Länder*. Municipalities have also received a share of VAT revenue since 1998.

In terms of revenue, VAT is one of the most important taxes in Germany.

The respective revenue shares of the Federation and the *Länder* are fixed by federal statute requiring the consent of the Bundesrat.

How did the tax develop?

Records show that a general levy on consumption already existed during early German history. This levy re-emerged during the Carolingian period, in some instances under the collective Latin term *teloneum* (for customs duties, fees, transaction duties and consumption duties). Later, in German medieval towns, turnover or poundage fees imposed during the 12th and 13th centuries in connection with various market levies then evolved into both general and specific turnover duties that had the character of taxes. From the 15th century onwards, these duties fragmented into a large number of separate consumption duties called *Akzisen* (i.e., excises). Although proposals were made to impose a generalised excise tax, this concept had not gained traction by the time the *Akzisen* were replaced by modern consumption taxes during the 19th century. The only German city to transform its *Akzisen* into a generalised turnover tax was Bremen, which imposed this tax from 1863-1884.

The concept of turnover tax was taken up again by the Reich during the First World War. In 1916, as part of the Reich Stamp Duty Act, the Reich introduced a goods turnover stamp duty as a tax on supplies of goods. Then in 1918, the Turnover Tax Act ushered in an all-stage tax on gross turnover, a system that was retained until the end of 1967.

Repeated amendments increased the original tax rate of 0.5% to 2% in 1935, 3% in 1946 and 4% in 1951.

The most important turning point in the historical development of turnover tax in Germany was the adoption of the VAT Act of 1967, which marked the transition to a value-added tax system incorporating input tax deduction. The shift in the system of taxation was necessary due to the ongoing process of harmonising turnover taxation within the European Communities. All of the other member states introduced systems of turnover taxation involving VAT and input tax deduction. Another key step toward the further harmonisation of turnover taxes was taken with the adoption of the “Sixth Council Directive of 17 May 1977 on the harmonization of the laws of the member states relating to turnover taxes”. This directive was revised in the form of the VAT Directive, which entered into force on 1 January 2007. This Directive also lays down the basis for calculating the Community’s own resources that are derived from the VAT revenue of the member states. For this reason, it contains comprehensive rules for delineating turnover and determining the basis of VAT assessment; at the same time, it establishes binding rules for all member states regarding the scope of tax exemptions.

German VAT law is regularly adapted to ongoing developments in EU law. Both the VAT Directive as well as rulings by the European Court of Justice play a key role in this connection.

Wages tax

The > income tax payable on the wages and salaries of employees is collected through deduction by employers (and is then referred to as wages tax). This deduction at source usually serves to conclude the taxation procedure, unless the employee is assessed for income tax after the end of the calendar year or unless the employer is required to carry out an annual adjustment of wages tax paid. The employer is obliged to deduct wages tax from each wage or salary payment.

In order to withhold an appropriate amount of wages tax for each individual employee, employers need certain types of information about employees, such as their tax class, any allowances, and any membership in a religious community that requires withholding of church tax. Starting in 2013, the revenue administration will store this

What is the tax payable on?

W

information in a database and make it available to employers electronically upon request. This information, referred to in German as “electronic parameters for withholding wages tax” (abbreviated as “ELStAM” in German), serves as the basis for the new electronic ELStAM procedure that replaces wages tax cards, which were made of paper and last issued in 2010. Employees’ local tax offices are responsible for setting up the ELStAM procedure for individual employees and making any necessary modifications such as changes in tax class, adding allowances, etc. These tax offices are also responsible for issuing any paper documents that may still be needed in 2013.

Employers must shift from the paper-based procedure to the new electronic procedure at a time of their choosing during the course of 2013. Until then, the paper wages tax cards from 2010, or any other authorised substitute documents issued by an employee’s local tax office, shall apply for purposes of withholding wages tax.

In order to register an employee with the revenue administration and gain access to the employee’s ELStAM information, employers must submit the employee’s date of birth and tax identification number to the revenue authorities. The revenue authorities then check whether the employer is authorised to access the employee’s ELStAM information and, if so, set up the ELStAM procedure. The employer then downloads the information, adds it to the employee’s wages account, and uses this information for the duration of the employee’s tenure. If any of these parameters change, the revenue authorities make the new information available to the employer. The electronic parameters used to withhold wages tax must appear on employees’ payslips.

The employer pays over the wages tax for all employees in a single sum to the company’s local tax office on certain prearranged dates (monthly, quarterly or annually). To do this, the employer submits a self-assessed wages tax return (usually electronically) to the tax office. This merely states the total amount of wages tax deducted at source; there is no requirement for it to contain further information about the employees for whom the tax has been deducted.

Any excess of tax withheld during the calendar year is refunded to the employee at the end of the year. The mechanism used is an annual adjustment of wages tax, which employers must carry out in certain cases. Alternatively, employees may apply for an income tax

assessment. Assessment upon application is particularly used to allow wages tax paid to be credited towards income tax. Assessment for income tax also enables the taxpayer to claim for any income-related expenses that were not taken into account when wages tax was deducted at source.

In certain circumstances employees are required by law to submit an income tax return. This is particularly true of cases in which:

- the positive sum of taxable income on which no wages tax has been paid, or the positive sum of income and benefits that are not themselves taxed but influence the rate of tax payable (e.g., benefits for unemployment, sickness and short-time work including seasonal short-time work, as well as parental benefit, supplementary amounts in the case of partial retirement and foreign income) amounts to more than €410
- the tax office has calculated a tax-free allowance and added this as an ELStAM parameter, if the amount of wages or salary exceeds the threshold of €10,500 (from 2014: €10,700) for individual filers or €19,700 (from 2014: €20,200) for joint filers; however, tax assessment is not mandatory if the tax office has merely entered the fixed allowance for disabled persons, surviving dependents and care-givers, or the tax relief for single parents in special cases, or has only amended the number of child tax-free allowances available
- the employee received wages or a salary from more than one employer at the same time
- spouses/registered partners assessed jointly for tax both received wages or a salary and one was taxed in class V or VI, or both opted for tax class IV using a special factor, for part or all of the assessment period
- the provisions of section 34 of the Income Tax Act serving to reduce the progressive effect have been applied when deducting wages tax

While any excess of tax collected will be refunded when an employee is assessed for income tax, additional tax will also be demanded in the event of underpayment.

Liability for wages tax attaches to the employee. However, the employer is responsible for withholding and remitting the tax in an orderly manner. If the tax office determines on examination that insufficient wages tax has been withheld, it may enforce payment of

Who is liable for tax?

W

the amount still due, collecting it either from the employer or directly from the employee.

Every resident employer is obliged by law to withhold wages tax and to remit it to the tax office. Particular characteristics indicative of a resident employer are that it pays wages or salaries and has its residence, its habitual abode, its place of management, its headquarters, a permanent establishment or a permanent representative in Germany.

Wages tax must be withheld for employees who:

- are subject to unlimited tax liability in Germany (section 1 subsections (1) to (3) of the Income Tax Act)
- are subject only to limited tax liability in Germany – that is, they are resident or have an habitual abode in another country – and receive income as described in section 49 subsection (1) number 4 of the Income Tax Act – for example, if they are employed in Germany (i.e., cross-border commuters) or if their work serves or has served a purpose in Germany
- receive wages or a salary from German public funds

As a rule, when wages tax is deducted from income that individuals who are subject to limited tax liability earn from employment, this discharges their income tax liability. If their liability is not discharged, employees subject to limited tax liability are obliged to submit a tax return. Employees who are citizens of an EU member state or a country coming under the scope of the Agreement on the European Economic Area may apply for income tax assessment to prevent the effect of final discharge of tax liability.

How much is the tax?

Wages tax is withheld from an employee's wage or salary (classed as income from employment). The wage or salary is defined as all the income accruing to an employee from a current or former contract of employment. This includes not only cash payments, but payments in kind as well (e.g., room and board) and other benefits (for instance, the private use of a company car). It is immaterial whether such income is recurrent or non-recurrent, or whether the employee has a legal right to it; the name given to the income and the form in which it is granted are also of no consequence.

Wages tax on employment income is calculated to correspond to the income tax an employee would pay if he or she derived income exclusively from employment.

To ensure that the actual amount of wages tax deducted is as appropriate as possible, employees are put into different tax classes according to family status. Furthermore, all the statutory tax-free allowances and fixed allowances are taken into account when wages tax is deducted. These are:

- the standard allowance for employees of €1,000 a year (for tax classes I to IV)
- the standard allowance for special expenses of €36 a year (for tax classes I to IV)
- the flat-rate allowance for provident expenses (which is taken into account for all tax classes and has components for pension insurance, statutory health and long-term care insurance, and private insurance for basic health care and compulsory long-term care)
- tax relief of €1,308 a year for single parents (for tax class II)

Employees are categorised into the individual tax classes using the following criteria:

Class I: single and divorced employees, as well as married employees and employees in registered partnerships whose spouse/partner lives outside of Europe or who are permanently separated from their spouse/partner. Widowed employees also belong to class I unless they meet the criteria for class III.

Class II: employees listed under class I if they are entitled to relief for single parents. Such relief is available to employees who are single parents with at least one child living in their household, provided that the employee is entitled to child benefit or a tax-free allowance in respect of the child, and that the child is registered as having a primary or secondary residence with the employee.

Class III: married employees and employees in registered partnerships subject to unlimited income tax liability, who are not permanently separated, if

- a) the employee's spouse/partner does not receive income from employment

W

b) the employee's spouse/partner has been assigned to class V upon application by the couple

c) the employee is widowed (in this case, Class III applies only for the calendar year following the year of the spouse's death)

Class IV: married employees and employees in registered partnerships subject to unlimited income tax liability, who are not permanently separated and who both receive income from employment.

Class V: married employees and employees in registered partnerships subject to unlimited tax liability, who are not permanently separated and whose spouse/partner has been assigned to class III upon application.

Class VI: employees who receive a wage or salary from several employers at the same time.

Married employees and employees in registered partnerships who (i) are subject to unlimited income tax liability, (ii) are not permanently separated and (iii) both receive income from employment may choose one of two combinations: class III with class V, or class IV with class IV. It is also possible to choose the combination of class IV with class IV and to apply a factor to this (factor system). Using class IV and class IV together with a factor has the effect that the legal provisions on tax relief (particularly the basic personal allowance) are applied to the wages tax deduction for each spouse/partner. The factor serves to ensure that the tax-reducing effect of the income-splitting method is taken into account in the wages tax deduction for both spouses/partners. Anyone wishing to use the factor system must apply to their tax office. The application must be made jointly by both spouses/partners using the application form for a change of tax class for married couples/registered partners. The couple must also state their expected income from employment for the calendar year in question. Alternatively, the application can be made when applying for a reduction in wages tax. As is the case for married couples/registered partners who choose the combination of class III with class V, those who opt for the factor system are required to submit a tax return to the tax office after the end of the calendar year.

An application at www.bmf-steuerrechner.de (in German) allows you to work out your annual wages tax.

What is the legal basis?

Wages tax is not a tax in its own right but merely a separate method of collecting > income tax. The legal basis is the Income Tax Act. To complement the Income Tax Act's provisions on wages tax, a piece of secondary legislation entitled the Wages Tax Implementing Ordinance has been issued. This includes legal rules on the withholding of wages tax, insofar as the Income Tax Act fails to provide any definitive ruling. In addition to this, wages tax guidelines have been issued to clarify uncertainties and points calling for interpretation.

The revenue authorities of the *Länder* monitor the withholding and remittance of wages tax by employers. The Federation is entitled to 42.5% of the revenue, as are the *Länder*. The municipalities receive 15%.

Who collects the tax?

How did the tax develop?

The taxation of income from employment may be traced back to the old poll taxes which were imposed in Germany from the end of the Middle Ages onwards, mainly on persons without property whose only asset was their ability to work. In a similar manner, personal tithes were levied by the church on the output of individuals' industry or occupation. In Württemberg, for instance, the taxation of employment income developed from fixed poll taxes originally imposed according to the property tax code of 1470. Starting in 1694, wage-earners were divided into different classes and taxed accordingly. The withholding of tax at source began in 1708 in some instances and was extended to all salaried employees in 1764. The first German income tax, introduced in East Prussia from 1808 to 1811, also made provision for the deduction of tax at source from employment income. Income from employment was subsequently taxed in Prussia under the class tax of 1820, in Bavaria under the family tax of 1814 and the employment earnings tax of 1856, and in Württemberg under the service and occupational income tax of 1852. It then developed into a modern form of income taxation (though originally without deduction at source) around the turn of the century. The Reich Income Tax Act of 1920 first introduced tax withholding by the employer across the board and for all earnings from labour. Until 1924, employers were required to affix and to cancel tax stamps in the tax card of each employee. The income tax reform of 1925 introduced the special category of income from dependent employment, and the present system of wages tax cards and deduction at source emerged when the use of tax stamps was discontinued. The relevant legal provisions were combined in 1934 in a Wages Tax Implementing Ordinance. The wages tax guidelines issued by the revenue authorities were added in 1937 as a basis for interpreting the law.

W

An important development was the introduction in 1948 of the annual adjustment of wages tax. However, this was not the current system of adjustment by the employer, but rather income tax assessment for the employee.

With effect from 1975, the most important procedural rules from the Wages Tax Implementing Ordinance were incorporated into the Income Tax Act.

Withholding tax on construction work

The tax is payable on income from the provision of construction services.

When a service provider performs construction services in Germany for a business within the meaning of section 2 of the VAT Act or for any legal entity under public law, the service recipient is required to withhold tax from the consideration paid for such services. Taxation at source secures the state's tax claim.

Businesses within the meaning of the VAT Act include not only those businesses that submit provisional VAT returns but also small businesses, farmers who pay flat-rate taxes, and VAT-exempt businesses. This also includes persons who earn proceeds from renting or leasing. The construction services must be performed for the business itself. Service recipients who let dwellings are not required to withhold taxes in connection with construction services for these dwellings if the recipient lets no more than two dwellings. The tax is withheld on behalf of the service provider.

The tax does not have to be withheld in cases when the service provider furnishes the service recipient with an exemption certificate from the tax office or when the consideration paid for the construction services is not expected to exceed specific exemption thresholds in the current year. The tax office issues an exemption certification upon request as long as this is not detrimental to the state's tax claim.

The withholding tax is credited to the following taxes payable by the service provider:

What is the tax payable on?

Who is liable for the tax?

- wages tax
- income and corporation tax prepayments
- income and corporation tax
- tax withheld by the service provider in connection with construction services

The withholding tax on construction work amounts to 15% of the consideration paid including VAT.

Like wages tax, the withholding tax for construction work is a special method for collecting > income tax and is based on sections 48 to 48d of the Income Tax Act.

The withholding tax for construction work is collected by the *Länder* and must be remitted to the tax office competent for the service provider. Specifically designated tax authorities act as a central point of contact for foreign service providers.

The withholding tax for construction work was introduced by the Act to Curb Illegal Activity in the Construction Sector of 30 August 2001 and took effect for considerations paid from 31 December 2001 onwards.

Withholding tax on income from capital

The system for taxing income from capital assets was reformed by the 2008 Business Tax Reform Act (cf. Federal Law Gazette I, p. 1912). A separate tax schedule applies to investment income from assets held by private individuals. As a rule, the withholding tax on income from capital serves to discharge in full any income tax obligations that private individuals have in respect of that income. The individuals are then not required, in principle, to state the income from capital in their tax returns. In cases where business assets yield capital income, the withholding of the tax merely constitutes a prepayment. The income in question must still be stated in the tax return.

The tax is payable on income from capital assets. Examples include income from shareholdings in companies, the sale of shares, investment funds, futures, and interest. Foreign dividends are also covered if a domestic paying agent credits them to the investor.

How much is the tax?

What is the legal basis?

Who collects the tax?

How did the tax develop?

What is the tax payable on?

W

Who is liable for tax?

Investment income becomes liable to withholding tax on income from capital when it accrues to the beneficiary. Either the source of the income from capital, if in Germany, or a domestic paying agent (such as a bank or credit institution) must then withhold the tax on behalf of the person to whom the income is due.

The withholding of tax is not required under certain circumstances. For example, upon instruction from the recipient of the income, the paying agent can take account, in whole or in part, of the standard savers' allowance of €801 (or €1,602 for married couples or registered partners assessed jointly for tax). If certification of non-assessment issued by the tax authorities is presented to the paying agent, the latter is permitted to credit the capital income to the recipient without withholding the tax.

How much is the tax?

Sole traders and partnerships are also subject to withholding tax on income from capital. Exceptions allowing the tax not to be withheld exist for certain corporations.

More detailed information is available from banks or credit institutions.

In principle, withholding tax on income from capital amounts to 25% of that income; > solidarity surcharge and, where appropriate, > church tax are then imposed on top. When deducting the tax, the paying agent may, provided certain conditions are met, offset losses and credit foreign tax for which a reduction is no longer available.

For individuals resident in Germany, withholding tax on income from capital generally has the effect of definitively discharging tax liability in respect of that income (> final withholding tax). As a rule, the tax rate is 25% of the income generated by private individuals' investments. Taxpayers whose marginal rate of tax is less than 25% may apply to have the income from capital included in their income tax assessment.

For non-residents subject to limited tax liability, the withholding tax on income from capital also generally serves to fully discharge that tax liability (> withholding taxes on the income of non-residents).

Withholding tax on income from capital is not a tax in its own right but, like > wages tax, is a special form of levying > income tax. Its legal basis is found in sections 43 to 45d of the Income Tax Act. As a consequence of the 2008 Business Tax Reform Act, as of 1 January 2009 the withholding tax on income from capital has served to definitively discharge the tax liability of private individuals.

For further information see > final withholding tax.

Withholding tax on income from capital is collected by the *Länder*. It is paid over to the tax office responsible either for taxing the income of the entity generating the capital income or for the paying agent.

In the course of the development of systems of earnings taxation in the 19th century, “capital taxes” were introduced in southern Germany from 1820 onwards (first in Württemberg, thereafter in Bavaria). These gained in significance with the increasing spread of mobile capital invested to generate earnings, but were then incorporated into the new income taxes at the turn of the century. In 1920, Erzberger’s financial reform introduced a separate tax on income from capital which was not credited towards > income tax and > corporation tax and did not affect the income and corporation tax liability attached to income from capital. Following the tax reform of 1925, income from capital was always subjected to tax within the scope of income taxation.

The 2008 Business Tax Reform Act (Federal Law Gazette (2007) I, p. 1912) inserted section 43 subsection (5) into the Income Tax Act. This took effect on 1 January 2009, and has the consequence that withholding tax on income from capital now fully discharges private individuals’ tax liability in respect of such income. In other words, withholding tax on income from capital is a “final” tax. The income involved no longer needs to be stated on an individual’s income tax return. To ensure that different types of income are treated equally for tax purposes, capital gains have been included in the category of income from capital since 1 January 2009.

What is the legal basis?

Who collects the tax?

How did the tax develop?

W

What is the tax payable on?

Withholding taxes on the income of non-residents

As is the case for people resident in Germany, non-residents (people with limited tax liability in Germany) are subject to withholding tax on income earned from employment by an employer in Germany (> wages tax) and on certain types of income from capital assets (> final withholding tax, > withholding tax on income from capital). Under section 50a subsection (1) of the Income Tax Act, the following types of income earned by non-residents are subject to a special withholding tax:

- remuneration for artistic, athletic, entertainment and similar performances in Germany as well as the domestic exploitation of such performances
- remuneration for the use of, or the right to use, e.g., copyright, industrial property rights, expertise as well as remuneration generated from mediating the opportunity to contract a professional sportsmen for a limited period
- supervisory board fees

In exceptional cases, tax offices may require the withholding of tax from other types of income accruing to non-resident individuals (cf. section 49 of the Income Tax Act) if this is regarded as expedient to ensure the collection of tax (cf. section 50a subsection (7) of the Income Tax Act).

The party liable to pay the abovementioned remuneration (e.g., the concert organiser at whose concert a non-resident artist with limited tax liability performs) withholds at source the tax on the agreed fee for the abovementioned activities. That liable party then pays it over to the respective tax office on behalf of the beneficiary of the remuneration (e.g., the artist). It is simpler and more reliable to withhold tax rather than assessing such beneficiaries for income and corporation tax purposes. This is because the beneficiary will not have a place of residence/habitual abode in Germany (if the beneficiary is an individual) or a registered office or place of management in Germany (if the beneficiary is a company).

Tax must generally be computed on the full amount of income without any deductions. In the case of supervisory board fees, tax amounts to 30% of income; a 15% rate applies to the other forms of remuneration under section 50a subsection (1) of the Income Tax Act. The rate is 25% for withholding tax that is required by a tax office under

Who is liable for tax?

How much is the tax?

section 50a subsection (7) of the Income Tax Act for the purposes of ensuring the collection of tax. The solidarity surcharge has to be added in each case.

An EU/EEA national who is resident in an EU/EEA state and, accordingly, certain corporations with limited tax liability, may, as part of the withholding tax process, claim their business expenses or income-related expenses which have a direct commercial connection to their income. In these instances, the tax rate increases to 30% for individuals and is 15% for corporations – plus the solidarity surcharge in each case.

Any > income tax liability is generally deemed to have been discharged with the deduction of final withholding taxes. Assessment for income tax/corporation tax may be conducted subsequently in certain cases (cf. section 50 subsection (2) number 4 letter b and number 5 of the Income Tax Act, and section 32 subsection (2) number 2 of the Corporation Tax Act).

Taxation by withholding (with the exception of wages tax and withholding tax on income from capital) is standardised in section 50a of the Income Tax Act. Procedures to provide relief from withholding taxes under double taxation agreements, the Parent-Subsidiary Directive and the Interest and Royalties Directive (such as the refunding of tax withheld, the exemption method and a simplified procedure for reduction of/exemption from taxation) are regulated in section 50d of the Income Tax Act.

The withholding tax for non-residents is collected by the Federal Central Tax Office for remuneration paid after 31 December 2013 and by the Länder for remuneration paid prior to this date. The Federation and the Länder share the revenue.

Various regulations have applied to the withholding of tax from the income of non-residents since 1935, and in 1958 these were incorporated into the Income Tax Act. The 2009 Annual Tax Act revised section 50a of the Income Tax Act. Particular aspects of note include a change in the list of income subject to final withholding tax and the ability of EU/EEA nationals to elect to claim business expenses/income-related expenses as part of the withholding tax procedure.

The aim of this change was to adapt the provision to fit with double taxation law and European Court of Justice case law.

What is the legal basis?

Who collects the tax?

How did the tax develop?

A/B

Eliminated or expired taxes: an overview (in alphabetical order)

Acetic acid duty

How did the duty
develop?

Apart from earlier duties on vinegar levied at local level, acetic acid duty as a tax on consumption was first introduced by the Spirits Duty Act of 15 July 1909. The bill introduced at that time under the Reich financial reform was intended to protect the agricultural production of vinegar by fermentation and to this end initially included a ban on the use of industrially produced acetic acid in foodstuffs and preserves. However, the decision was taken instead to introduce a duty on the consumption of acetic acid, in order to (i) avoid increases in the price of vinegar, which might occur if the ban on industrially produced acetic acid were put in place and (ii) ensure a contribution to the revenue of the Reich.

The duty was designated acetic acid duty starting in 1922. The financial burdens borne by the acetic acid and fermented vinegar industries were equalised under a law adopted on 21 May 1929 in response to joint applications by both industries. The former Reich duty was assigned to the Federation in 1949.

In order to help simplify the tax system, and due to the minor amount of revenue generated by the duty, acetic acid duty was rescinded as of 1 January 1981 on the basis of a law adopted on 3 July 1980 (Federal Law Gazette I, p. 761).

Berlin emergency levy

How did the levy
develop?

When the Soviet occupation force began a blockade of Berlin in autumn 1948, the city's vital needs had to be supplied by way of a costly airlift. Legislation adopted on 8 November 1948 introduced the Berlin emergency levy with the aim of providing the city with financial support.

The levy was comprised of (i) a special tax on the income of individuals and legal entities not exceeding approximately 4% and (ii) a postage stamp duty of DM 0.02 on every postal item. The levy was originally limited to a period of three months, but was repeatedly extended and amended as the emergency situation in Berlin persisted. It was ultimately rescinded in three stages: the duty on postal items was eliminated on 1 April 1956; the tax on individuals was eliminated on 1 October 1956; and the tax on legal entities was eliminated on 1 January 1958, although the latter was continued in the form of a simultaneous increase in corporation tax rates.

Bills of exchange tax

The forerunners of bills of exchange tax were stamp duties, introduced in the 17th and 18th centuries in Germany and elsewhere, that were imposed on the use of officially required documents. Various German states introduced stamp duties on bills of exchange in the early years of the 19th century, for instance Prussia under the Stamp Tax Act of 1822. In 1869, the North German Confederation adopted uniform legislation governing the stamp tax on bills of exchange, which applied to all of the confederation's member countries. After the Reich was established in 1871, the tax was extended to cover the entire territory of the Reich. After minor amendments in 1879, 1909 and 1918, the law was revised in 1923 to omit the designation "stamp" and then reworked again in 1925.

The bills of exchange tax was temporarily suspended by the wartime tax simplification ordinance of 14 September 1944, but was reintroduced in 1948 under Military Government Ordinance no. 64 when the currency reform took effect. Revenue from the tax was assigned to the *Länder* under the Basic Law of 1949, then reassigned to the Federation starting in 1970 under the Financial Reform Act of 1969.

Tax was payable on the issuance, by the drawer, of a bill drawn in Germany, or in the case of a bill drawn abroad, by the first German holder.

How did the tax develop?

B/C

How much was the tax?

Tax was calculated on the amount of the bill at a rate of DM 0.15 for each DM 100 or fraction thereof. It was reduced by half for certain cases involving cross-border transactions.

Bills of exchange tax was paid through the purchase of stamps that were available at post offices and that were affixed to the reverse side of the bill. Authorised franking machines were also available for this purpose that accepted prepaid cards purchasable at post offices.

What was the legal basis?

The legal bases for imposing bills of exchange tax were the Bills of Exchange Tax Act as amended on 24 July 1959 (Federal Law Gazette I, p. 536) and the Bills of Exchange Tax Implementing Ordinance as amended on 20 April 1960 (Federal Law Gazette I, p. 274).

Bills of exchange tax was eliminated as of 1 January 1992 under the Financial Market Promotion Act of 22 February 1990 (Federal Law Gazette I, p. 266).

Building land tax

How did the tax develop?

Building land tax was a form of > real property tax (category C) imposing a higher charge on land that was suitable for construction projects but remained undeveloped, the aim being to increase the supply of building land. Building land tax was levied only in 1961 and 1962.

Company tax

How did the tax develop?

The growth in industrial activity in the early years of the 20th century gave rise to increasing numbers of incorporated companies whose profits were not subject to > income tax or > corporation tax at the time. In order to bring these companies within the scope of the tax system, the individual German states began imposing stamp duties on company articles from 1850 onwards.

Under the Prussian Stamp Tax Act of 1909, a tax of 1.4% to 1.5% was imposed on limited liability companies upon (i) their formation, (ii) increases in share capital and (iii) contributions of supplementary capital.

In 1913, the authority to impose this tax was transferred to the Reich in accordance with a revision of the Reich Stamp Duty Act. In 1922, the tax was incorporated into the new Capital Transactions Tax Act; from this point on, the tax was imposed on capital inflows themselves and not on the documentation of such inflows. After multiple amendments to the law, company tax was suspended by the Tax Simplification Ordinance of 14 September 1944. After company tax was reintroduced by the military government in 1948, revenue from the tax was initially assigned to the *Länder* in 1949 under the Basic Law and then reassigned to the Federation in 1969 under the Financial Reform Act.

Company tax was imposed primarily on the initial acquisition of shareholder rights in connection with the formation of domestic limited companies and capital increases, as well as on contractual and voluntary contributions of capital by shareholders, advance contributions, supplementary contributions, waivers of outstanding claims, and the assumption of losses. Contributions of investment and operating capital to domestic subsidiaries of foreign limited companies (except for limited companies from other EC member states) were also subject to tax.

In the case of acquisitions of shareholder rights, the tax was calculated based on the value of the consideration given or on the value of such rights; in the case of shareholder contributions, the tax was calculated based on the value of the contribution. The tax rate was 1%.

The legal basis for imposing company tax was the Capital Transactions Tax Act as revised on 17 November 1972 (Federal Law Gazette I, p. 2129) with subsequent amendments, together with the Capital Transactions Tax Implementing Ordinance (Federal Law Gazette 1960 I, p. 243).

Company tax was eliminated as of 1 January 1992 under the Financial Market Promotion Act of 22 February 1990 (Federal Law Gazette I, p. 266).

What was the legal basis?

C

How did the surcharge develop?

Counter-cyclical surcharge

Within the framework of the Federal Government's economic policy, a temporary 10% "counter-cyclical surcharge" on > income tax and > corporation tax was levied from 1 August 1970–30 June 1971. The revenue was deposited in a non-interest-bearing account at the Bundesbank and refunded to taxpayers as of 15 June 1972.

What was the legal basis?

The legal basis was the Counter-cyclical Surcharge Act of 23 July 1970 (Federal Law Gazette I, p. 1125). The surcharge was not a conventional "tax" but rather a special levy (cf. Federal Constitutional Court decision of 15 December 1970, Federal Tax Gazette 1971 II, p. 39).

How did the tax develop?

Coupon tax

Interest from fixed-interest securities and debt register claims paid to non-residents was subject to capital yields tax (coupon tax) until 31 July 1984.

This type of taxation on capital yields was eliminated under the 1985 Tax Adjustment Act.

How did the tax develop?

Credit profits levy

The credit profits levy was a currency-related charge imposed within the framework of post-war legislation geared toward the equalisation of financial burdens (Lastenausgleich). The levy was imposed on profits from business debt realised as a result of post-war currency reform.

The credit profits levy expired on 10 January 1974 (see also the description of the > mortgage profits levy).

Ice cream duty

As an offshoot of the old > beverage duty, ice cream duty derived from an emergency decree issued by the Reich President on 26 July 1930 that also included duties on non-alcoholic beverages such as mineral water and soft drinks. It was a local duty based on *Länder* legislation and communal by-laws and was last levied in Bavaria in 1971.

The duty was imposed on the sale of ice cream for immediate consumption at the place of sale. The duty rate was generally 10% of the sales price.

Investment tax

The imposition of an investment tax of 11% for a period not exceeding two years was envisaged on 9 May 1973 as part of the Federal Government's stability policy. This tax was enacted by the Bundestag under the Tax Amendment Act of 26 June 1973 (Federal Law Gazette I, p. 676) with the proviso that the revenue – together with the revenue from the > stability surcharge – be deposited at the Bundesbank as a counter-cyclical reserve.

A Federal Government resolution of 19 December 1973 shortened the originally envisaged application period of 9 May 1973–30 April 1975 to 9 May–30 November 1973.

The revenue collected under the investment tax was released in accordance with Article 8 of the Investment and Employment Promotion Act of 23 December 1974 (Federal Law Gazette I, p. 3676).

Lamp duty

Early forms of tax on illuminants included levies on candle wax (wax impost, wax tithes) during the Middle Ages and certain luxury taxes on candles during the Baroque period.

When petroleum gained increasing use as an illuminant during the second half of the 19th century, this fuel became subject to fiscal duties that subsequently gave rise to mineral oil duty. As the revenue requirements of the Reich grew, the rapid spread of electricity and gas

How did the duty develop?

How did the tax develop?

How did the duty develop?

L/M

spurred discussions on the possible introduction of a duty on electricity and gas consumption as part of the 1909 Reich financial reform. However, this type of duty was rejected in favour of a duty on electric light bulbs and gas mantles. The Reich legislation adopted in 1909 formed the basis for the modern Reich lamp tax, which was retained as a federal tax from 1949 onward.

In order to avoid distortions of competition within the European internal market, lamp duty was abolished as of 1 January 1993 under Article 5 of the Act Adapting the VAT Act and Other Legislation to the EC Internal Market, which was adopted on 25 August 1992 (Federal Law Gazette I, p. 1548, 1561).

Match monopoly

The state match monopoly established on 1 June 1930 under Reich legislation adopted on 29 January 1930 was based on a contract concluded between the German Reich and the Swedish match manufacturer Svenska Tändsticks Aktiebolaget (STAB) on 26 October 1929 for a loan of US \$125m during the world economic crisis. The Swedish group sought to gain a monopoly over Germany's match market because it believed its strong position there was being threatened by the sale of Russian matches at dumping prices. The fiscal monopoly was taken over by the Federation in 1949.

When the Kreuger loan was fully repaid on 15 January 1983, Germany's contractual obligation in relation to the Swedish group to maintain the match monopoly ended. The monopoly was therefore abolished as of 16 January 1983 under legislation adopted on 27 August 1982 (Federal Law Gazette I, p. 1241), and a free match market was created.

Matches and lighters duty

The taxation of matches was introduced in Germany by Reich legislation adopted on 15 July 1909. A parliamentary financial commission – which, as part of the Reich financial reform, was charged with identifying new revenue sources to meet the government's increasing financial requirements – referred to similar models in other countries (e.g., Russia in 1848, France in 1871, Italy in 1895) that had

How did the monopoly develop?

How did the duty develop?

imposed duties on matches as a complement to > tobacco duty. Liability for duty was initially restricted to matches and tapers but was extended in 1919 to cover lighters and flints, though this extension was repealed in 1923 due to technical difficulties.

In order to help simplify the tax system, and due to the minor amount of revenue generated by the duty, matches and lighters duty was rescinded as of 1 January 1981 on the basis of a law adopted on 3 July 1980 (Federal Law Gazette I, p. 761).

Mortgage profits levy

After the First World War and the hyperinflation of 1923, fiscal measures were taken to capture the currency depreciation gains made by house owners (mortgage debtors).

Under a Reich emergency tax ordinance of 1924, in conjunction with legislation to offset currency depreciation adopted in 1926, all of the *Länder* were required to introduce a “house interest tax”, designated in some instances as “appreciation tax” or “building disencumberment tax”.

From 1931 onward, these taxes were gradually dismantled; an ordinance adopted in 1942 provided for the cancellation of these taxes upon payment of the tenfold annual charge by 1 January 1943.

After the Second World War, so-called land charge conversions were introduced under the 1948 “Act to Secure Claims for the Equalisation of Burdens”; these conversions amounted to 90% of mortgages converted at a ratio of 10:1. In accordance with the 1952 Equalisation of Burdens Act, interest and amortisation payments made on these converted charges were credited toward the final equalisation taxes. In order to bring the collection of mortgage profits tax to an end in 1979, surcharges were imposed from 1 July 1972 to 31 December 1979 on payments that would have had to have been made after 31 December 1979 under the conditions of Reichsmark debt.

How did the levy develop?

What was the legal basis?

N/P

How did the tax develop?

Net worth tax

Because the legislature did not enact a revision of net worth tax following the Federal Constitutional Court's decision of 22 June 1995 (Federal Tax Gazette II, p. 665), it was no longer possible to impose the tax as of 1 January 1997.

What was the duty payable on?

Packaging duty

Packaging duty was imposed on disposable packaging and tableware when the food and beverages contained therein were sold for consumption at the place of sale. Duty was assessed on each item of disposable packaging or disposable tableware (e.g. cans, bottles, cups, dishes and cutlery).

What was the legal basis?

The legal bases for imposing packaging duty were provided under Article 105 paragraph (2a) of the Basic Law as well as under the municipal tax laws and by-laws of the relevant *Länder* and municipalities.

Who collected the duty?

Packaging duty was a local excise duty levied by a number of municipalities. Its aim was to help prevent waste.

How did the duty develop?

Packaging duty was first introduced by the city of Kassel (in the *Land* of Hesse) with effect from 1 July 1992. Additional municipalities in Hesse and in other *Länder* followed this example. However, in 1998 the Federal Constitutional Court declared Kassel's packaging duty unconstitutional (Federal Constitutional Court Decision 98, pp. 106-134).

Packaging duty revenue in 1999 amounted to DM 0.6m.

Payroll tax

How did the tax develop?

Payroll tax was formerly a component of > trade tax. Subject to authorisation by the respective *Land* government, municipalities could select payroll as a tax base, together with the mandatory tax bases of trading profits and business capital prescribed under the Trade Tax Act.

In such cases, businesses were required to submit monthly or quarterly returns stating the self-assessed payroll tax in accordance with the tax rate determined by the respective municipality.

Payroll tax was eliminated as of 1 January 1980 on the basis of the 1979 Tax Amendment Act.

Playing card duty

In medieval German towns, gaming equipment (such as the “gaming boards” in Nuremberg) served – along with lotteries for non-money prizes and gaming casinos – as a source of tax revenue. During the mercantilist period, stamp duties modelled on French levies were introduced in the German territories, sometimes in connection with state monopolies on the trade in playing cards. For example, Prussia used this system as early as 1714 before replacing it in 1838 with a simple stamp tax (in the form of an official stamp affixed to playing cards) that was then further refined in 1867. The Customs Union Treaty of 8 July 1867 confirmed the stamp duty on playing cards as a territorial levy.

Assigned to the Reich by legislation adopted on 3 July 1878, the duty was designated an > excise duty under the Reich Playing Card Duty Act of 10 September 1919. Authority to impose the duty was transferred to the Federation in 1949.

In order to help simplify the tax system, and due to the minor amount of revenue generated by the duty, playing card duty was rescinded as of 1 January 1981 on the basis of a law adopted on 3 July 1980 (Federal Law Gazette I, p. 761).

Property levy

Exceptional levies to overcome the effects of wars and emergencies have been recorded from the earliest times, and in Germany from the Middle Ages onwards these were imposed from time to time in the form of special aids (Bede), pecuniary assistance, property charges, contributions, exceptional taxes, etc.

How did the duty develop?

What was the legal basis?

How did the levy develop?

P/S

In more recent times, the “One-time Supplementary Defence Contribution Act” adopted by the Reich in 1913 introduced a number of property charges, which were levied at comparatively moderate rates under wartime tax legislation enacted between 1916 and 1919. These culminated in the imposition of a “Reich emergency levy” under Reich legislation adopted on 31 December 1919, which provided for a “substantial levy on property” at rates ranging from 10%–65% with the option of paying in instalments. In 1922, due to the pressure of persistent inflation and the need to take the interests of trade and industry into account, this special levy was replaced with an ongoing Reich property tax. After the Second World War, a provisional “immediate assistance levy” was introduced in 1949; under the 1952 Equalisation of Burdens Act, this special levy was credited towards the property levy. This proved to be the most important levy under the equalisation of burdens scheme, which also included the > mortgage profits levy and the > credit profits levy. The property levy was payable in equal quarterly amounts, and was charged for the last time on 10 February 1979.

Salt duty

How did the duty develop?

The use of salt to generate tax revenue on German territory started with salt duties that were modelled on Roman levies and that were imposed as early as the period of the Frankish kingdom. From the High Middle Ages onwards, these duties spread throughout towns and territories, evolving into > excise taxes referred to as Ungeld or Akzisen on salt. At the same time, salt monopolies developed that originally took the form of a royal monopoly over saltworks. These monopolies were then delegated to electors (Kurfürsten) under the Golden Bull of Charles IV in 1356, and to other territorial rulers under the Peace of Westphalia in 1648. These rulers either leased the monopolies to private persons against payment of a concession (salt interest, salt tithes, etc.) or operated saltworks themselves as a state monopoly (as in Saxony in 1561, Brandenburg in 1583 and Bavaria in 1587/94). Because the differing monopoly arrangements in the individual German states posed a major obstacle to trade between the members of the German Customs Union, they were replaced with a standardised salt levy in the form of a product tax under an agreement concluded on 8 May 1867. The tax rate at that time was two thalers for one hundredweight (equivalent to DM 12 per 100 kg). This rate remained constant apart from temporary variations caused by inflation in the aftermath of the First World War.

Salt duty was transferred to the Reich in 1871, temporarily abolished between 1926 and 1931, and then assigned to the Federation under the Basic Law of 1949.

In order to avoid distortions of competition within the European internal market, salt duty was abolished as of 1 January 1993 under Article 5 of the Act Adapting the VAT Act and Other Legislation to the EC Internal Market, which was adopted on 25 August 1992 (Federal Law Gazette I, p. 1548, 1561).

Securities tax

In addition to > stock exchange transactions tax and company tax, a third capital transactions tax was levied up to the end of 1964 on the initial purchase of bonds. Like the other two taxes, this securities tax had its roots in stamp duties that were originally imposed in the 19th century. The tax was eliminated for reasons of monetary and capital market policy by legislation adopted on 25 March 1965.

Stability surcharge

As part of a stability programme adopted by the Federal Government, a 10% “stability surcharge” on > income tax and > corporation tax was levied from 1 July 1973 to 30 April 1974. The purpose of the surcharge was to help restore economic stability during this period.

The legal basis for the stability surcharge was provided by the 1973 Tax Amendment Act (Federal Law Gazette I, p. 676). Persons with annual taxable income exceeding DM 24,000 (for single persons) or DM 48,000 (for married couples) were liable for tax.

The revenue (together with the revenue from > investment tax) was deposited at the Bundesbank as a counter-cyclical reserve.

What was the legal basis?

How did the surcharge develop?

What was the legal basis?

S

How did the tax develop?

Stock exchange transactions tax

The stock exchange transactions tax, which was originally adopted to offset the fiscal burden arising from documents used in stock exchange dealings, was imposed on turnover from trading in securities (e.g., bonds, shares and mutual funds shares). During the post-war period, revenue from the tax originally accrued to the *Länder* from 1949 onward but was reassigned to the Federation following the financial reform of 1969. Most other EU member states impose similar taxes or have imposed them in the past. A tax on securities transactions is also imposed at the stock exchanges in New York and London.

What was the legal basis?

The Reich Stamp Duty Act of 1881 stipulated for the first time that contract notes and invoices related to certain securities purchases were subject to a fixed-rate stamp duty that was uniform throughout the Reich. From 1885 onward, the tax was no longer imposed on the documents but rather on the commercial transactions themselves, which were taxed at a certain percentage rate. In 1922, the stock exchange transactions tax was combined with company tax and securities tax under the Capital Transactions Tax Act. The tax was discontinued in September 1944, then reintroduced in 1948 by the military government. Stock exchange transactions tax was abolished as of 1 January 1991 by the Financial Market Promotion Act of 22 February 1990 (Federal Law Gazette I, p. 266).

Sugar duty

How did the duty develop?

The use of sugar as a source of tax revenue began with the imposition of sugar duty, which was generally applied from the 16th century onwards as overseas trade in cane sugar from colonial territories flourished. After the high sugar content of beets was discovered in the 18th century, the commercial production of sugar from domestically cultivated sugar beets grew rapidly, especially during the continental blockade under Napoleon. As a result, competition between domestically produced sugar (which was initially tax-exempt) and dutiable foreign sugar became increasingly intense. As a result, in 1841, sugar duty on domestic beet sugar was introduced in Germany. This duty took the form of a common input tax under the German Customs Union in 1844 (assessed according to the delivery weight of sugar beets), and was later adopted in this form as a Reich duty in 1871. Improved production methods led in 1887 to a combined input and product tax,

with tax liability attaching to release for circulation. The duty was revised under the Sugar Duty Acts of 1923 and 1938 and then assigned to the Federation in 1949.

In order to avoid distortions of competition within the European internal market, sugar duty was abolished as of 1 January 1993 under Article 5 of the Act Adapting the VAT Act and Other Legislation to the EC Internal Market, which was adopted on 25 August 1992 (Federal Law Gazette I, p. 1548, 1561).

Surtax on income tax and corporation tax

The Fiscal Constitution Act of 1955 extended the list of federal taxes under Article 106 paragraph (1) of the Basic Law to include a “surtax on > income tax and > corporation tax.” This was intended to enable the Federation, without having to seek the consent of the Bundesrat, to meet rising revenue requirements resulting from economic or fiscal developments either by increasing federal > excise duties or by imposing a surtax on personal and corporate income tax. The surtax was collected for the first time starting on 1 January 1968 on the basis of the Surtax Act of 21 December 1967, adopted as the first part of the Act Implementing Multi-year Federal Financial Planning (Second Tax Amendment Act of 1967), and was intended to help close the foreseeable gaps in the federal budget. The tax rate was generally 3% of income tax or corporation tax liability.

The surtax on income tax was rescinded as of 1 January 1975 under the Income Tax Reform Act of 5 August 1974, and the surtax on corporation tax was discontinued as of 1 January 1977 when the corporation tax reform entered into force.

Sweetener duty

Under Reich legislation adopted on 14 July 1922, a sweetener duty was imposed on sugar substitutes in the form of sweeteners. The aim was to balance out the effects of the already existing sugar duty. The duty was assigned to the Federation in 1949 and rescinded under the 1965 Tax Amendment Act due to the minor amount of revenue it generated (approximately DM 2m per year).

How did the tax develop?

How did the duty develop?

T

How did the duty develop?

Tea duty

As the use of tea spread throughout Germany in the 17th and 18th centuries, legislators demanded that it be used as a source of tax revenue in the same way that coffee and other luxury goods were. Import duties were seen as the easiest and most lucrative way to tax this imported good, and the early development of tea duty coincides closely with that of > coffee duty. After tea duty was assigned to the Reich in 1871, it was reduced substantially with the aim of boosting sugar consumption. Then from 1909 onward, it was subject to repeated raises as the Reich's financial requirements increased. After the Second World War, an attempt to increase tea duty following the 1948 currency reform failed due to lack of authorisation by the Allied Control Council. This led to the introduction of a separate > excise duty on tea starting in March 1949 under legislation adopted by the administration of the Combined Economic Area on 21 October 1948 (for the *Länder* in the French Occupation Zone, the duty took effect starting in February 1950). The duty was meant to supplement the coffee duty that had been adopted a short time previously, as it was considered inappropriate to treat the two luxury goods differently.

In order to avoid distortions of competition within the European internal market, tea duty was abolished as of 1 January 1993 under Article 7 of the Act Adapting the VAT Tax Act and Other Legislation to the EC Internal Market, which was adopted on 25 August 1992 (Federal Law Gazette I, p. 1548, 1561).

Transport tax

How did the tax develop?

The history of the taxation of commercial transport dates back to medieval overland, waterway and road tolls that served as forerunners for a type of travel duty that emerged with the spread of excise duties in the 17th century. The subsequent development of stamp duties on transport-related contracts was ultimately extended to cover freight documents as well, for instance under the Reich Stamp Duty Acts of 1900, 1906 and 1913. The Reich Act on the Taxation of Passenger and Goods Transport of 8 April 1917 was the first tax of this kind that was not fiscal in nature but instead sought to fulfil purposes of transport and economic policy. As such, it had a strong influence on the shape of future transport-related taxes. Shipping was exempted from transport

tax in 1921 due in part to the international Rhine Navigation Convention, and motor transport became subject to a specific > motor vehicle tax in 1922. As the competition between railway and road transport increased, transport tax was introduced in 1936 on long-distance commercial transport and goods haulage by road, although long-distance own-account transport and long-distance furniture transport were exempted from 1944–1951.

Transport tax was applied to the commercial transport of passengers and goods by railway and road and was mainly imposed for traffic management purposes, particularly in order to curtail long-distance own-account transport with motor vehicles.

Transport tax accrued to the Federation and was eliminated as of 1 January 1968 in connection with VAT reform. Short-haul goods transport by road was not subject to the tax. In 1969, the tax was replaced in part with the road haulage tax, which expired in 1971.

List of taxes mentioned (English – German)

English

Acetic acid duty
 Acquisition tax
 Alcopops duty
 Aviation tax
 Beer duty
 Betting tax
 Beverage tax
 Bills of exchange tax
 Building land tax
 Church tax
 Cinema tax
 Class tax
 Coffee duty
 Company tax
 Corporation tax
 Counter-cyclical surcharge
 Coupon tax
 Credit profits levy
 Dog tax
 Electricity duty
 Employment earnings tax
 Energy duty
 Entertainment tax
 Excise duties
 Expenditure tax
 Family tax
 Final withholding tax
 Fire protection tax
 Gaming casinos levy

German

Essigsäuresteuer
 Erwerbsteuer
 Alkopopsteuer
 Luftverkehrssteuer
 Biersteuer
 Rennwettsteuer
 Getränkesteuer
 Wechselsteuer
 Baulandsteuer
 Kirchensteuer
 Kinosteuer
 Klassensteuer
 Kaffeesteuer
 Gesellschaftsteuer
 Körperschaftsteuer
 Konjunkturzuschlag
 Kuponsteuer
 Kreditgewinnabgabe
 Hundesteuer
 Stromsteuer
 Arbeitsertragsteuer
 Energiesteuer
 Vergnügungssteuer
 Verbrauchsteuern
 Aufwandsteuer
 Familiensteuer
 Abgeltungsteuer
 Feuerschutzsteuer
 Spielbankabgabe

Hunting and fishing tax	Jagd- und Fischereisteuer
Ice cream duty	Speiseeissteuer
Import VAT	Einfuhrumsatzsteuer
Income tax	Einkommensteuer
Inheritance and gift tax	Erbschaftsteuer/Schenkungssteuer
Insurance tax	Versicherungssteuer
Intermediate products duty	Zwischenerzeugnissteuer
Investment tax	Investitionsteuer
Lamp duty	Leuchtmittelsteuer
Lottery tax	Lotteriesteuer
Matches and lighters duty	Zündwarensteuer
Mineral oil duty	Mineralölsteuer
Mortgage profits levy	Hypothekengewinnabgabe
Motor vehicle tax	Kraftfahrzeugsteuer
Net worth tax	Vermögenssteuer
Nuclear fuel duty	Kernbrennstoffsteuer
Packaging duty	Verpackungssteuer
Payroll tax	Lohnsummensteuer
Playing card duty	Spielkartensteuer
Property levy	Vermögensabgabe
Real property tax	Grundsteuer
Real property transfer tax	Grunderwerbsteuer
Road haulage tax	Straßengüterverkehrsteuer
Salt duty	Salzsteuer
Secondary residence tax	Zweitwohnungssteuer
Securities tax	Wertpapiersteuer
Service and occupational income tax	Dienst- und Berufseinkommensteuer
Solidarity surcharge	Solidaritätszuschlag
Sparkling wine duty	Schaumweinsteuer

Spirits duty	Branntweinsteuer
Stability surcharge	Stabilitätszuschlag
Sugar duty	Zuckersteuer
Surtax on income tax and corporation tax	Ergänzungsabgabe (zur Einkommensteuer und Körperschaftsteuer)
Sweetener duty	Süßstoffsteuer
Taxes on income, property and transactions	Besitz- und Verkehrsteuern
Tea duty	Teesteuer
Tobacco duty	Tabaksteuer
Trade tax	Gewerbesteuer
Transport tax	Beförderungsteuer
VAT	Umsatzsteuer
VAT equalisation tax	Umsatzausgleichsteuer
Wages tax	Lohnsteuer
Withholding tax on construction work	Steuerabzug bei Bauleistungen
Withholding tax on income from capital	Kapitalertragsteuer
Withholding taxes on the income of non-residents	Abzugsteuern bei beschränkt Steuerpflichtigen

List of laws mentioned (English – German)

English

1893 Act on Municipal Levies

2008 Annual Tax Act

2008 Business Tax Reform Act

2009 Annual Tax Act

Act Implementing the Federal
Consolidation Programme

Act to Curb Illegal Activity in the
Construction Sector

Act to Proceed with Ecological Tax Reform

Act to Reform Real Property Tax Law

Administrative Offences Act

Alcopops Duty Act

Aviation Tax Act

Basic Law

Berlin Promotion Act

Betting and Lottery Act

Budget Consolidation Act

Capital Formation Act

Code of Procedure for Fiscal Courts

Concomitant Act on the Second Federalism
Reform

Corporation Tax Act

Corporation Tax Implementing Ordinance

EC Mutual Assistance Act

EC Recovery Act

Electricity Duty Act

Electricity Duty Implementing Ordinance

Energy Duty Act

External Tax Relations Act

Federal Building Code

Financial Reform Act

Fire Protection Tax Act

Fiscal Code

Growth Acceleration Act

German

Kommunalabgabengesetz (KAG) von 1893

Jahressteuergesetz 2008

Unternehmensteuerreformgesetz 2008

Jahressteuergesetz 2009

Gesetz zur Umsetzung des Föderalen
Konsolidierungsprogramms

Gesetz zur Eindämmung illegaler
Betätigung im Baugewerbe

Gesetz zur Fortführung der ökologischen
Steuerreform

Gesetzes zur Reform des Grundsteuerrechts

Ordnungswidrigkeitengesetz

Alkopopsteuergesetz

Luftverkehrsteuergesetz

Grundgesetz

Berlinförderungsgesetz

Rennwett- und Lotteriegesetz

Haushaltssanierungsgesetz

Vermögensbildungsgesetz

Finanzgerichtsordnung

Begleitgesetz zur zweiten
Föderalismusreform

Körperschaftsteuergesetz

Körperschaftsteuerdurchführungsverord-
nung

EG-Amtshilfe-Gesetz

EG-Beitreibungsgesetz

Stromsteuergesetz

Stromsteuerdurchführungsverordnung

Energiesteuergesetz

Außensteuergesetz

Baugesetzbuch

Finanzreformgesetz

Feuerschutzsteuergesetz

Abgabenordnung

Wachstumsbeschleunigungsgesetz

Housing Construction Premium Act	Wohnungsbau-Prämiengesetz
Implementation of the Common Organisation of Markets Act	Gesetz zur Durchführung der gemeinsamen Marktorganisationen
Import VAT Exemption Ordinance	Einfuhrumsatzsteuer-Befreiungsverordnung
Income Tax Act	Einkommensteuergesetz
Income Tax Implementing Ordinance	Einkommensteuer-Durchführungsverordnung
Inheritance and Gift Tax Act	Erbschaftsteuer- und Schenkungsteuergesetz
Inheritance Tax Reform Act	Erbschaftsteuerreformgesetz
Investment Grants Act	Investitionszulagengesetz
Market Organisation Act	Marktorganisationsgesetz
Motor Vehicle Tax Act	Kraftfahrzeugsteuergesetz
Motor Vehicle Tax Implementing Ordinance	Kraftfahrzeugsteuer-Durchführungsverordnung
Nuclear Fuel Duty Act	Kernbrennstoffsteuergesetz
Property Tax Code (of 1470)	Schatzungsordnung (von 1470)
Prussian District and Provincial Taxes Act of 1906	preußische Kreis-Provinzial-Abgabengesetz von 1906
Prussian Financial Equalisation Act of 1938	preußische Finanzausgleichsgesetz von 1938
Public Gaming Casinos Ordinance	Verordnung über öffentliche Spielbanken (1938)
Real Property Tax Act	Grundsteuergesetz
Real Property Transfer Tax Act	Grunderwerbsteuergesetz
Reich Act on the Spirits Monopoly	Reichsgesetz über das Branntweinmonopol
Reich Act on the Supervision of Private Insurers and Building Societies	Reichsgesetz über die Beaufsichtigung der privaten Versicherungsunternehmer und Bausparkassen
Reich Beer Duty Act	Reichsbiersteuergesetz
Reich Financial Equalisation Act	Reichsfinanzausgleichsgesetzes
Reich Stamp Duty Act	Reichsstempelgesetz
Reich Valuation Act	Reichsbewertungsgesetz
Revenue Administration Act	Finanzverwaltungsgesetz
Road Traffic Registration Regulations	Straßenverkehrs-Zulassungs-Ordnung
Sixth Act Amending the Excise Duty Acts	6. Gesetz zur Änderung von Verbrauchsteuergesetzen
Solidarity Surcharge Act	Solidaritätszuschlaggesetz

Sparkling Wine and Intermediate Products Duty Act	Schaumwein- und Zwischenenerzeugnissteuergesetz
Sparkling Wine Duty Act	Schaumweinsteuergesetz
Spirits Monopoly Act	Branntweinmonopolgesetz
Surtax Act	Ergänzungsabgabengesetz
Tax Adjustment Act	Steuerbereinigungsgesetz
Tax Amendment Act	Steueränderungsgesetz
Tax Audit Ordinance	Betriebsprüfungsordnung
Tax Consultancy Act	Steuerberatungsgesetz
Tobacco Duty Act	Tabaksteuergesetz
Trade Tax Act	Gewerbesteuergesetz
Trade Tax Implementing Ordinance	Gewerbsteuer-Durchführungsverordnung
Transfer of Functions Ordinance	Funktionsverlagerungsverordnung
Treaty on German Unification	Einigungsvertrag
Valuation Act	Bewertungsgesetz
VAT Act	Umsatzsteuergesetz
VAT Competency Ordinance	Umsatzsteuerzuständigkeitsverordnung
VAT Implementing Ordinance	Umsatzsteuer-Durchführungsverordnung
Vehicle Licensing Regulations	Fahrzeug-Zulassungsverordnung
Wages Tax Implementing Ordinance	Lohnsteuer-Durchführungsverordnung

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