



Information sheet - trade tax

Scope of tax liability

Every business run in Germany is liable to pay trade tax. Self-employed professionals (e.g. doctors, architects or journalists) and business set-ups in the farming and forestry sectors do not have to pay trade tax. Non-profit making organisations are exempted from trade tax.

Commencement/ termination of tax liability

For one-man firms and partnerships, liability to pay trade tax commences when the relevant operations commence, and terminates when the business is actually discontinued.

In the case of joint-stock companies, liability to pay trade tax always commences when the corporation is entered in the Commercial Register and terminates when the entire business operations are discontinued, generally on distributing the assets to the shareholders.

Levying trade tax

Trade tax is a local tax and is levied on an annual basis. As far as local authorities are concerned it is the most important original source of income, serving to cover their public expenditure.

However, anyone engaged in business has to file a trade tax return – just like all other tax returns – with the tax office. The tax office calculates the trade earnings taking into account any tax-free amounts, and notifies the local authority levying the tax about the so-called “trade tax assessment base” (Steuermessbetrag) that has been determined. Using the percentage rate (so-called “tax factor” - Hebesatz) applying locally, the local authority works out the trade tax payable.

Trade Tax on Partnerships

Since partnerships did not profit from corporation tax being reduced to 15%, relief already in place for partnerships was retained and new privileges have been introduced.

A tax allowance of EUR 24,500 is still deducted when a partnership’s tax assessment base is calculated.

Starting in the tax period 2008, 3.8 times the trade tax assessment base (or the total trade tax at the most) will be deducted from the income tax charged to anyone running a sole proprietorship liable to pay trade tax. So far only 1.8 times the trade tax assessment base could be offset. The same will apply to the partners in a partnership with reference to their individual share in the trade tax owing. This way, sole entrepreneurs and anyone participating in a partnership will gain virtually full relief from trade tax through their income tax bill.

Calculating trade tax

<p><u>Step 1 – Calculate trade earnings</u></p> <p>The taxable profit worked out for income or corporation tax purposes serves as a basis for calculating trade tax.</p> <p><i>Amounts added (section 8 GewStG)</i></p> <p>When calculating trade earnings, certain items that have reduced profits partly have to be added back on again, e.g. one quarter of the interest paid on debt, or one quarter of a silent partner's share in profits. However, this is only done if the total amount having to be added back on exceeds a sum of EUR 100,000 (tax allowance).</p> <p><i>Amounts subtracted (section 9 GewStG)</i></p> <p>On the other hand, certain amounts are subtracted from profits for the purpose of calculating trade tax. The amounts subtracted are e.g. profits from shareholdings in other companies, and 1.2% of the rateable or taxable value (Einheitswert) of any real estate included in the business assets.</p> <p>The trade earnings resulting from this sum are rounded down to the next full 100 before further calculations are done.</p> <p>If the result of the calculation of trade earnings is a negative amount, then this amount may be deducted from earnings in following years.</p> <p><u>Step 2 – Calculate tax assessment base</u></p> <p>In the case of one-man firms and partnerships (e.g. OHG, KG), a tax-free amount of 24,500 € is deducted from the trade earnings.</p> <p>In the case of certain other legal entities, a tax-free amount of 3,900 € is deducted.</p> <p>3.5% of the remaining trade earnings form the trade tax assessment base.</p> <p><u>Step 3 – Calculate trade tax</u></p> <p>The tax office notifies the local authority levying the tax about the trade tax assessment base calculated. Applying the tax factor fixed for the district each year, the local authority works out the trade tax due. The tax factor varies from 200% to 490%.</p>	<p>profit</p> <p>+ amounts added</p> <p>- amounts subtracted</p> <p>= trade earnings (rounded)</p> <p>- 24,500 € if applicable</p> <p>- 3,900 € if applicable</p> <p>= remaining trade earnings</p> <p>x 3.5 %</p> <p>= trade tax assessment base</p> <p>x tax factor</p> <p>= trade tax</p>
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Example

At XY-OHG in Berlin, the taxable profit for the calendar year 2008 is 100,000 €. Already deducted here is interest of 200,000 € paid on a loan which the entrepreneurs took out 7 years previously when the the firm was set up.

The company's real estate consists of a property which the business uses itself. Its rateable value is 55,000 €.

Step 1 – Calculation of trade earnings

Profit 100,000 €

Pursuant to section 8 GewStG, one quarter of the interest paid (25% of 200,000 € = 50,000 €) has to be added back on. However, this is not done because the sum of 50,000 € falls short of the new tax allowance of 100,000 €.

According to section 8 GewStG, 1.2% of the rateable value (here: 55,000 €) of any property belonging to the business assets are deducted from the profit: - 660 €
= 99,340 €

Trade earnings (rounded) ~ 99,300 €

Step 2 – Calculation of tax assessment base

In the case of partnerships, trade earnings are reduced by a tax-free amount of 24,500 € - 24,500 €

Remaining trade earnings = **74,800 €**

To calculate the trade tax assessment base, a reference figure of 3.5% is applied. x 3,5 %

Trade tax assessment base → **2,618 €**

Step 3 – Calculation of trade tax

The trade tax factor (Hebesatz) in Berlin is 410 %. x 410 %

Trade tax levied = **10,733.80 €**

Set-Off Against Income Tax

3.8 times the trade tax assessment base, in this case a **sum of 9.948,40 €** is offset on a pro rata basis against each partner's personal income tax bill.