This guide has been prepared by an independent third-party firm.

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GERMANY – TAX CONSIDERATIONS ON SHORT-TERM LETS

The following information is a guide to help you get started in learning about some of the tax requirements that might apply to you when providing short-term accommodation in Germany.

Tax can be tricky and it is important to ensure that you keep up to date with your tax obligations and remain tax compliant. The timely preparation, filing and payment of taxes are your responsibility.

If you are an individual supplying short-term accommodation in Germany, you should make sure that you understand each of the following types of taxes, and pay the ones that apply to you:

- Income taxes (Personal Income Tax and, if applicable, Trade Tax)
- Value added tax (VAT)

Please note that the information contained in this guide is limited to Personal Income tax and VAT. Other taxes may apply to you, including, for example, tourist taxes.

Please understand that this information is not comprehensive, and is not intended to be legal advice. If you are unsure about your local tax obligations, we encourage you to check this with official local sources, or to seek advice from qualified professionals.

Please note that we do not update this information in real time, so you should confirm that the laws or procedures have not changed recently.

We draw your attention to the fact that Airbnb may have an obligation to report income earned by users of the platform. Therefore, if there is a mismatch between the information reported by Airbnb and the income you reported in your annual income tax return, the tax authorities may ask you questions.

PERSONAL INCOME TAX

When an individual earns income in Germany, it is likely that they will be required to pay a percentage of the tax on this income to the German tax authority. Below is a brief outline of the tax that may arise on income earned from short-term lets in Germany and some information on how this tax can be paid to the German tax authorities.

Germany's tax year runs from 1 January to 31 December.

German rules applicable to income earned in relation to short-term lets

The rules for short-term lets vary based on the specific case. Short-term lets can be categorized as passive property rental income, or as business income with the consequence of being subject to trade tax. These categorizations are dependent on your individual case.

Some of the different cases could be:

a) The apartment is solely used for rental purposes.

   A property kept exclusively for holiday guests and kept ready for this purpose, is without further examination, subject to tax as passive property rental income. However, every case has to be examined on its own as German tax law is very case dependent regarding this matter.

b) The apartment is used for rental and personal use.

   When considering the allocation of income from lettings, it is crucial that a long-term income goal exists. For example, a rental activity has a long-term income goal if according to the circumstances at the beginning of the letting, it is not time limited and is designed to last.

   If a holiday apartment is used partly for rental purposes and partly for self-use, this usage type triggers evidence of private expenses relating to the letting. In these cases, the intention to achieve income must always be checked separately. You must prove objective circumstances to show that a total surplus ("Totalüberschuss") can be expected during the assessment period.

   Further examination based on the single case is required (*e.g.,* total surplus method).

c) Rental of a guest house ("Fremdenpension").

   If a property is let in combination with additional services (e.g., breakfast, towels, *etc.*) or if the fluctuation of guests is high, this income may be categorized as business income with the consequence of trade tax ("Gewerbesteuer") (if the income subject to trade tax exceeds the € 24,500 tax allowance). The trade tax applies in addition to any income tax liability with a credit against the income tax liability (subject to conditions and cap). The exact trade tax rate varies depending on the municipality.

Reporting tax in Germany

If you receive income in Germany from short-term lets, you are legally required to report the income amounts and file a personal income tax return and, if applicable, a trade tax return.

If you are not represented by a German certified tax adviser (Steuerberater) you should use the "Elster" platform and the corresponding software to submit your income tax returns (https://www.elster.de/eportal/start). Please note that this is the official platform and its use is free of charge. However, there are a variety of other software applications that can also be used.

You can also paper file your tax return to your local German tax authority office.

Reporting tax - filing deadline

Generally, you must file your income tax return 7 months after the respective calendar year has ended. (Please note that for the calendar year 2022, the filing deadline has been extended to October 2, 2023). However, if you are represented by a German certified tax adviser (Steuerberater), the deadline for filing the personal income tax return is generally extended to 28 (or 29 in a leap year) February of the second year after the respective tax year (Please note that for the calendar year 2022, the filing deadline has been extended to July 31, 2024).

The deadline for online filing and paper filing is the same.

Reporting tax - payment deadline

Tax payments are determined by the respective tax assessment notice, which is issued by the tax authorities after they have processed your tax case. Income tax payments are due within one month after the announcement of the tax assessment notice. Tax authorities will also assess tax prepayments if applicable. These tax prepayments are due quarterly (on 10th of March/ of June/ of September/ of December).

German Tax Authority contact details

The tax authority contact details usually depend on your place of residence (further detail of which can be found here). For example, if you are resident in Munich, the Munich tax authority is responsible for your case and you would contact this office.

German income tax rates

German income tax is levied at rates rising on a sliding scale. The exact rate to be levied depends upon the amount of total taxable income (including employment salary *etc.*) you have; this rate is then applied to the entire "taxable income". Taxable income covers income from the seven income categories*. For 2022, the income tax rates for single individuals are:

- Income between €0-€10,347 is covered by the basic allowance
- Income between €10,348- and €14,926 is taxable at 14% to ca. 24%
- Income between €14,927€- and €58,596 is taxable at 24% to ca. 42%
- Income between €58,597 and €277,825 is taxable at 42%
- Income of €277,826 and over is taxable at 45%

**Please note that these thresholds are subject to change annually and you should ensure you are using the most up to date categories.*

The German government is levying a 5.5% solidarity surcharge for an indefinite period. The surcharge is imposed as a percentage on all individual income taxes. In specific cases there are reductions, especially for individuals with children. From January 1, 2021 on, the solidarity surcharge is only levied if the income tax due exceeds €16,956 (or € 33,912 for married individuals filing income tax returns jointly).

Members of officially recognized churches pay church tax as a surcharge on their income tax, which has the effect of increasing your effective rate of tax. The rates are either 8% or 9%, depending on the federal state where the individual resides.

Coming within the charge to income tax in Germany

The basic personal allowance is a lump sum "general allowance" of €10,347 (2022) built into the tax tables and taxed at a rate of nil. If your income is below this threshold you are still required to declare the income on your income tax return.

Typical expenses that can be deducted from an individual's income in relation to short-term lets.

The following expenses can be deducted:

- depreciation
- interest expenses
- maintenance costs
- property taxes
- street cleaning
- garbage disposal
- water supply
- heating costs
- home insurance

Deductions available for tax depreciation (*e.g.*, capital allowances / wear and tear)

Depreciation is calculated based on the acquisition costs of the building (including incidental acquisition costs). The depreciation rate is in most cases 2% per annum, if the building is not classified as a company asset (concerns cases of passive property rental income). If the building is classified as a company asset (concerns cases of business income) the depreciation rate is 3% per annum.

German income tax obligations for non-resident individuals

If you are not resident in Germany you are subject to tax on your German source income only. Rental income is generally treated as German source income, and an income tax declaration needs to be filed annually.

Taxation of this income depends on the double taxation treaty between Germany and your country of residence. Most double taxation treaties allow Germany to tax rental income.

German income tax obligations for a German individual in receipt of foreign rental income

If you are a German resident you are taxed on your worldwide income, provided that there are no restrictions due to a double taxation treaty applicable.

General property taxes payable

The following taxes are payable on a property:

a) Land tax ("Grundsteuer")

   Land tax is assessed annually on the owners of land and buildings as a charge on the specific taxable value. The tax is levied by the local authority at rates varying considerably throughout the country. The tax charged is a deductible expense for income and, if applicable, trade tax purposes.

b) Real estate transfer tax (RETT) ("Grunderwerbsteuer")

   RETT is levied on the sales price or other transfer value on each change of ownership in land and buildings. There are very few exceptions other than sales especially between husband and wife, or transfers subject to gift and inheritance tax. The basic rate of real estate transfer tax varies, in 2022 between 3.5% and 6.5%, depending on the federal state in which the property is located. RETT is part of the aforementioned incidental acquisition costs of buildings.

Capital taxes in Germany

For properties that are not classified as a company asset (concerns cases of passive property rental income) the disposal of property is categorized under "other income" which is part of the seven income categories. For such properties the disposal is not subject to income tax after a 10 year vesting period (*i.e.*, if a property is bought in 2011 and has been sold in 2022, the profit is not taxable).

There are some specific exceptions for smaller vesting periods that depend on the individual case. For properties that are classified as company asset (concerns cases of business income) the disposal is subject to income tax, generally without exemption.

Sample Tax Computation 1		
Anna owns a 2 bedroom house in Frankfurt, and has an occupancy rate of 100%. The house was acquired in 2011. The total gross rent received for 2022 was €24,000. The acquisition costs for the building were €100,000.		
Anna incurred the following expenses in relation to this house in 2022: house insurance €500, land tax ("Grundsteuer") €350, mortgage interest €5,500 and water supply costs €600.		
		€
Gross rental income		24,000
Less allowable expenses:	Depreciation 2% of €100,000 (section 7 (4) Nr. 2a of the German Income Tax Act)	(2,000)
	House insurance	(500)
	Mortgage interest	(5,500)
	Land tax ("Grundsteuer")	(350)
	Water supply costs	(600)
Taxable rental income*		15,050
Taxable income**		15,014

German Income tax (standard income tax at basic rate)		**1,1013**
Solidarity surcharge ***		**0**
** Assumption: The rental is examined without guesthouse ("Fremdenpension") character and leads to passive property rental income (Section 21 of the German Income Tax Act)*		
*** Special expenses lump sum (€36) is deductible. Laura has no other than the abovementioned expenses. The rental income is Laura´s only income in 2022.*		
**** Assumption: No hardship clause according to section 4 sentence 2 SolzG 1995 is applicable.*		

Sample Tax Computation 2		
Anna owns a 2 bedroom house in Frankfurt, with an occupancy rate of 100%. The house was acquired in 2011. The total gross rent received for 2022 was €7,000. The acquisition costs for the building were €100,000.		
Anna incurred the following expenses in relation to this house in 2022: house insurance €500, land tax ("Grundsteuer") €350, mortgage interest €5,500 and water supply costs €600.		
		€
Gross rental income		7,000
Less allowable expenses:	Depreciation 2% of €100,000 (section 7 (4) Nr. 2a of the German Income Tax Act)	(2,000)
	House insurance	(500)
	Mortgage interest	(5,500)
	Land tax ("Grundsteuer")	(350)
	Water supply costs	(600)
Taxable rental income/ loss*		(-1,950)

Taxable income/loss()		(-1,950)
Loss carryback/forward according to section 10d paragraph 1 of the German Income Tax Act**		**-1,950**
Taxable income***		**0**
German Income tax (standard income tax at basic rate)		**0**
Solidarity surcharge		**0**
** Assumption: The rental is examined without guesthouse ("Fremdenpension") character and leads to passive property rental income (Section 21 of the German Income Tax Act). Anna has no other expenses then the above-mentioned expenses. Then rental income is Anna's only income in 2022.*		
*** Assumption: There is no loss from previous years. It is assumed that the loss realized in 2022 will be carried forward or back to other fiscal periods and offset there. Additionally, it is assumed that under a projection of the overall rental period the rental leads to an overall positive income position. Otherwise, losses may not be accepted by the tax authorities.*		
**** Special expenses lump sum (€36) is not applicable if no positive income is available.*		

Sample Tax Computation 3		
Anna owns a 2 bedroom house in Frankfurt. One of the rooms is rented to guests via Airbnb, with an occupancy rate of 50%. The house was acquired in 2011. The total gross rent received for 2022 was €7,000. The acquisition costs for the building were €100,000.		
Anna incurred the following expenses in relation to this house in 2022: house insurance €500, land tax ("Grundsteuer") €350, mortgage interest €5,500 and water supply costs €600.		
		€
Gross rental income		7,000
Less allowable expenses:	Depreciation 2% of €100,000 (section 7 (4) Nr. 2a of the German Income Tax Act) (*50% non-deductible portion)	(1,000)

	House insurance (*50% non-deductible portion)	(250)
	Mortgage interest (*50% non-deductible portion)	(2,750)
	Land tax ("Grundsteuer") (*50% non deductible portion)	(175)
	Water supply costs (*50% non-deductible portion)	(300)
Taxable rental income*		2,525
Taxable income**		2,489
German Income tax (standard income tax at basic rate)		**0**
Solidarity surcharge		**0**
**Assumption: The rental is examined without guesthouse ("Fremdenpension") character and leads to passive property rental income (Section 21 of the German Income Tax Act)*		
*** Special expenses lump sum (€36) is deductible. Laura has no other than the abovementioned expenses. The rental income is Laura´s only income in 2022.*		

VALUE ADDED TAX

Value added taxes ("VAT") can be complicated and you should take your time to understand the rules that might apply to you and your particular situation.

Broadly speaking, VAT in Germany is a tax on consumption. Most goods and services supplied in Germany are subject to VAT.

A person who supplies goods and/or services in Germany may have to charge a customer with VAT and pay this VAT to the German tax authority. As with all taxes, we encourage you to consult with a tax advisor regarding your potential VAT obligations in Germany.

If you are currently renting a room to guests, you may be required to apply VAT to your rental charge and pay this VAT amount to the German tax authorities. As Airbnb is not supplying the rental, it is the responsibility of the host to consider local VAT obligations of the rental charge.

Do I need to collect any VAT from guests if I am letting short-term accommodation in Germany?

In general, individuals who perform supplies of goods or services in Germany on an ongoing basis are taxable persons and need to charge VAT on their supplies.

You will have the status of a taxable person and be required to register for VAT in Germany as soon as you provide accommodation on a regular basis with the intention of generating income.

However, when providing accommodation on a small scale you may fall under the VAT relief for small businesses. You may qualify as a small business if your regular turnover did not exceed €22,000 in the previous year and if you do not expect your turnover to exceed €50,000 in the current year. If you qualify as a small business you do not have to charge your guests VAT, you do not need to issue formal VAT invoices and you do not need to file monthly VAT returns (though you need to file an annual VAT return). However, regardless of this relief, you might still be required to self-assess and pay German VAT for taxable supplies or services received from foreign suppliers (as a result of the so-called reverse charge mechanism).

The drawback of the small business VAT relief would be that you are also not entitled to deduct input VAT from purchasing invoices in relation to the rented property (*e.g.,* cleaning services, repairs or commission fees). You can opt out of the small business VAT relief in order to charge your guests with VAT and be eligible to deduct such input VAT instead.

If you are not resident in Germany, but your property is located in Germany, then you need to register for German VAT. Note that under these circumstances the small business VAT relief would likely not apply to you, as it only applies to taxable persons who are established in Germany.

We encourage you to consult a tax advisor if you need assistance in determining whether you need to register for VAT, charge German VAT and determine whether you are entitled to deduct input VAT.

VAT applies to me. How do I determine how much tax I need to collect from my guests?

VAT rates differ per country and change from time to time. We recommend you to check on a regular basis with the local tax authorities to apply the correct VAT rates for the country where you are required to pay VAT.

At the date of issuance of this document, in Germany the reduced VAT rate of 7% applies to the short-term letting of accommodation (*i.e.*, letting of periods no longer than 6 months to an individual customer). Please note that the reduced VAT rate only applies to the short-term letting of accommodation but not to any additional services.

The letting of accommodation for a period longer than 6 months per individual customer is not considered short-term and may fall under a VAT exemption instead. As mentioned before, if the VAT exemption applies this would generally preclude the right to deduct input VAT.

Different rules and VAT rates may apply to additional supplies of goods or services carried out alongside the letting of accommodation. Please consult a professional advisor to assess the VAT implications in such cases.

VAT applies to me. How do I collect VAT from guests?

If you determine that you need to charge VAT on your supplies, please keep in mind that you have to collect this VAT from your guests and report and remit this VAT in periodic VAT returns (usually on a monthly basis, though quarterly filing may be granted if the turnover does not exceed certain thresholds). Exceptions may apply to business guests that may have to self-assess VAT as a result of the reverse charge mechanism.

The pricing to guests should be VAT-inclusive if you are required to charge VAT. In some cases you may need to consider certain formalities, such as issuing a receipt or an invoice to your guests (*i.e.,* in relation to business travelers where it might be necessary to state the VAT charge separately from the overall price). We recommend that you check your obligations in terms of relevant invoicing requirements with a local professional.

The monthly or quarterly preliminary VAT returns, as well as the consolidated annual VAT return, must be submitted electronically using official forms.

The deadline for filing the preliminary VAT return is generally the tenth day after the end of the respective reporting period (*e.g.,* the filing of the January VAT return is due for submission on 10 February). If this day is on a weekend or a public holiday, this pushes back the due date to the next working day. The VAT payment is due on the same day. It is possible to apply for a permanent filing and payment extension by one month for all periodic VAT submissions (which would push the due date for the January VAT return to 10 March, for example).

The due date of the annual VAT return is 31 July of the following year (*e.g.,* the annual VAT return for the calendar year 2022 is due on 31 July 2023). If a professional tax advisor prepares the annual VAT return, the filing deadline is extended by another 8 months (to 29 February 2024) by default.

For further guidance on filing returns, please see the German tax authorities' website.