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

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GERMANY – TAX CONSIDERATIONS ON SHORT-TERM LETTINGS

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
- Value added tax (VAT)

Please note that the information contained in this guide is limited to income taxes 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.

INCOME TAX

Where 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 lettings in Germany and some information on how this tax can be paid over 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 lettings.

The rules for short-term lettings vary based on the specific case. Short-term lettings 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) Apartment is solely used for rental purposes

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

b) 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").

Categorized as business income with the consequence of trade tax (“Gewerbesteuer”) (if the income subject to trade tax exceeds the € 24,500 tax allowance).

Reporting tax in Germany.

If you receive income in Germany from short-term lettings, you are legally required to report the income amounts and file a 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 (www.elster.de). Please note that this is the official platform and its use is free of charge however, there is a variety of other software applications which can also be used.

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

Reporting tax - filing deadline.

You must file your income tax return 7 months (end of July) after the respective calendar year has ended. However, if you are represented by a German certified tax adviser (Steuerberater), the deadline for filing the income tax return is extended to the end of February of the second year after the respective tax year.

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 March/ June/September/December).

German Tax Authority contact details.

The tax authority contact details depend on your 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*.

- Income between €0-€9,000 is covered by the basic allowance
- Income between €9,001-€54,949 is taxable at 14% to ca. 26%
- Income between €54,950-€260,532 is taxable at 42% less €8,621.75
- Income €260,533 and over is taxable at 45% less €16,437.70

**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.

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 €9,000 (2018) built into the tax tables and taxed at a rate of nil. If your income is below this threshold you will still be required to declare the income on your tax return.

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

The following expenses can be deducted:

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

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 to be classified as a company asset (concerns cases of business income) the depreciation rate is 3% per annum.

German income tax obligation 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.

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 (2018) 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 which are not classified as a company asset (concerns cases of passive property rental income) the disposals 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.

There are some specific exceptions for smaller vesting periods which depend on the individual case. For properties which 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), occupancy rate 100%. The house was acquired in 2008. The total gross rent received for 2017 was €24,000. The acquisition costs for the building were €100,000.		
Anna incurred the following expenses in relation to this house in 2017: 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)		**1,195**
Solidarity surcharge ***		**66**
** 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 2018.*		
**** Assumption: No hardship clause according to section 4 sentence 2 SolzG 1995 is applicable.*		

Sample Tax Computation 2

<table>
<tr><td colspan="3">Anna owns a 2 bedroom house in (Frankfurt), occupancy rate 100%. The house was acquired in 2008. The total gross rent received for 2017 was €7,000. The acquisition costs for the building were €100,000.</td></tr>
<tr><td colspan="3">Anna incurred the following expenses in relation to this house in 2017: house insurance €500, land tax ("Grundsteuer") €350, mortgage interest €5,500 and water supply costs €600.</td></tr>
<tr><td></td><td></td><td>€</td></tr>
<tr><td>Gross rental income</td><td></td><td>7,000</td></tr>
<tr><td>Less allowable expenses:</td><td>Depreciation 2% of €100,000 (section 7 (4) Nr. 2a of the German Income Tax Act)</td><td>(2,000)</td></tr>
<tr><td></td><td>House insurance</td><td>(500)</td></tr>
<tr><td></td><td>Mortgage interest</td><td>(5,500)</td></tr>
<tr><td></td><td>land tax ("Grundsteuer")</td><td>(350)</td></tr>
<tr><td></td><td>Water supply costs</td><td>(600)</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>Taxable rental income/ loss()*</td><td></td><td>(1,950)</td></tr>
<tr><td>Taxable income/loss()</td><td></td><td>(1,950)</td></tr>
<tr><td>Loss carryback/forward according to section 10d paragraph ½ of the German Income Tax Act**</td><td></td><td>1,950</td></tr>
<tr><td>Taxable income***</td><td></td><td>0</td></tr>
<tr><td>German Income tax (standard income tax at basic rate)</td><td></td><td>0</td></tr>
<tr><td>Solidarity surcharge</td><td></td><td>0</td></tr>
<tr><td colspan="3">* 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 2017.</td></tr>
</table>

*** Assumption: There is no loss from previous years. It is assumed that the loss realised in 2017 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 rooms is rented to guests via Airbnb, occupancy rate 50%. The house was acquired in 2008. The total gross rent received for 2017 was €7,000. The acquisition costs for the building were €100,000.		
Anna incurred the following expenses in relation to this house in 2017: 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 2017.*

VALUE ADDED TAX

Value added taxes can be complicated and you should take time to understand the rules as they apply to you and your particular situation.

Broadly speaking, Value-Added Tax (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 VAT and pay this 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 to 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 are considered to be in business in Germany need to charge VAT on their supplies, once they meet the criteria for VAT registration.

You will be considered to be in business and should be required to register for VAT in Germany if you provide accommodation on a regular basis with the intention of generating income. As such, once you begin supplying accommodation in this manner, you should register for VAT.

However, a person who supplies holiday accommodation may be considered as a small entrepreneur. In order to be considered a small entrepreneur you must VAT register and file an annual return, proving that your turnover is below the relevant thresholds (see below). If you qualify as a small entrepreneur, you will not need to file periodical VAT returns, you will not need to issue VAT invoices and you will not have to charge VAT to your guests. A person is considered a small entrepreneur if their turnover did not exceed €17,500 in the previous year and they do not expect their turnover to exceed €50,000 in the current year. You can apply to be considered as a small entrepreneur using a form for fiscal registration. You should contact your local tax advisor in order to confirm whether you may qualify as a small entrepreneur.

If you are a person who is not resident in Germany, but your accommodation is located in Germany, then you should also register for German VAT as the general VAT rules apply to you and the exception for small entrepreneurs may not.

We encourage you to consult a tax advisor if you need assistance in determining whether you need to register for and charge German VAT.

For further guidance on registering for VAT, please see the German tax authorities' website.

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 periodically. We recommend you to check on a regular basis with the local tax authority to get the most up to date VAT rates for the country where you are required to pay VAT.

For example, at the date of issuance of this document, the German VAT rate applicable to the letting of accommodation on a short-term basis is 7% in Germany. The letting of short-term accommodation is considered to be the letting of accommodation to each customer for less than 6 months. The letting of accommodation for a period longer than this may be exempt from VAT.

However, there are other VAT rates currently in force in Germany, so we recommend that you confirm with a local tax advisor the VAT rate applicable to your supplies. Additional or extra supplied services or goods may be subject to a different VAT rate.

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

If you determine that you need to charge VAT on the supplies that you make to guests, please keep in mind that you have to collect this VAT from your guests and report and remit this VAT in a periodic VAT return.

In Germany, preliminary VAT returns are generally required to be filed on a monthly basis. The deadline for filing the preliminary VAT return is the tenth day after the end of the reporting period though it may be possible to apply to the German Tax Authorities for an extension of one month. VAT returns must be filed electronically using the official VAT return form. The VAT payment is required to be made on the same day that the VAT return is due to be filed.

Additionally, an annual VAT return is required to be filed no later than July 31st of the year following the reporting year (i.e. an annual return for the calendar year 2018, is due to be filed no later than July 31st 2019). An extension may be obtained where a professional tax advisor prepares the return.

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

Some formalities, such as issuing a receipt or an invoice to your guests, may be required. The pricing to guests should be VAT-inclusive if you are required to charge your guests VAT. We recommend that you check your obligations in terms of relevant invoice requirements with a local tax advisor.