Taxes for business start-ups
Notes on accounting and corporate taxes
This leaflet is intended to give those start-up companies basic details of corporate
taxation and the way taxable profit is determined in accounting terms. The
information it contains is primarily aimed at commercially active start-up founders,
but independent freelancers may also find it useful.

Contents:

Introduction ..................................................... 2
1. Profit determination / Accounting ............... 2
   1.1 Single entry method .................................. 3
   1.2 Balance sheet accounting / double-entry
       accounting ............................................... 4
   1.3 Specific profit determination issues ........ 5
Write-downs .................................................... 5
Write-downs according to the contribution of
economic goods within the business .......... 6
Formation expenses ....................................... 6
2. The most important taxes .......................  7
   2.1 Income tax ........................................ 7
   2.2 Corporate tax ....................................... 10
      Flat-rate withholding tax / partial income
      method .................................................. 10
   2.3 Trade tax .......................................... 11
      Trade income ....................................... 11
      Calculating trade tax ................................ 11
      Prepayments ......................................... 12
   2.4 VAT ................................................ 12
      Tax exemptions ...................................... 14
      VAT advance return / input tax deduction ... 14
      VAT declaration ....................................... 15
      Issuing of invoices .................................. 15
      Small business regulation ....................... 16
      International issues ................................ 16
3. Legal form selection and taxes .............. 17

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Introduction

Differences between commercial enterprises and self-employed / freelancers emerge in many areas, for example the registration procedure, record-keeping obligations and the issue of trade tax liability. An activity is deemed commercial if it is conducted autonomously, sustainably and with the aim of making a profit and can be characterised as a participation in general economic transactions. Independent activity mainly refers to independent professions, namely doctors, engineers, architects, musicians and so on. The CCI will be happy to clarify these distinctions in response to individual enquiries.

This leaflet should also make clear that accounting should not just be considered a chore. It can also function as a key control tool for your business. If you have little or no experience with accounting and tax issues, it is advised that you seek professional advice.

1. Profit determination / Accounting

Tax must be paid on profit earned from commercial or freelance activity. This means the tax authorities are involved in the business dealings of each individual entity. For partnerships and sole proprietorships, profit is subject to income tax, while incorporated companies must pay corporate tax. All commercial operations must also comply with trade tax obligations.

To determine profit, tax law uses either the single entry method or balance sheet accounting (so-called double-entry accounting). The following individuals must implement double-entry accounting:

- Commercial parties registered in the commercial register are obliged to keep accounts in accordance with the German Commercial Code.

Note: Via the Accounting Law Modernisation Act (BilMoG) and initially from financial year 2008, an exemption from bookkeeping, accounting and inventory obligations for commercial parties with a commercially organised business undertaking was introduced: Sole traders, who do not achieve sales exceeding 600,000 Euros per year (for financial years which ends till 31 December 2015 not more than 500,000 Euros) and an annual net profit not exceeding 60,000 Euros per year (for financial years which ends till 31 December 2015 not more than 50,000 Euros) for two consecutive financial years, can claim exemption from bookkeeping, accounting and inventory obligations under commercial law. The exemption scheme can also be applied to newly established companies. To do so, the above requirements must be met at the end of the first financial year.

- All entrepreneurs who are obliged to file accounts in accordance with other (non-fiscal) laws are also subject to bookkeeping obligations for taxation purposes. The bookkeeping obligation commences with the first business transaction since
commencing the commercial enterprise. For incorporated companies, the bookkeeping obligation commences once the partnership agreement is signed.

- Commercial operators that are not subject to a bookkeeping obligation under commercial or other laws are obliged to engage in balance sheet accounting in accordance with tax regulations, provided they meet the following requirements:
  - Revenue exceeding not more than 600,000 Euros per year (for financial years which ends till 31 December 2015 not more than 500,000 Euros) or
  - Profit exceeding not more than 60,000 Euros per year (for financial years which ends till 31 December 2015 not more than 50,000 Euros).

If any of the specified limits are exceeded, the tax office will inform the taxpayer that double-entry accounting must be implemented. The bookkeeping obligation for tax thus commences at the start of the financial year, following receipt of notification of the tax office.

In the case of balance sheet accounting, unless otherwise specified under tax law, generally accepted accounting principles under commercial law must be observed. This means that a third-party expert (e.g. a tax auditor from the tax office) can use the accounting documents and records to form a picture of the business transactions and the overall state of the company within a reasonable period. All business transactions must be recorded separately, fully, correctly and properly, so that the development and settlement of the same remains traceable. In principle, the period used to determine profit is the calendar year. Under specific circumstances, however, the financial year may deviate from the latter. Documents used to determine profit must be retained for ten years, while other documents are subject to a six-year retention obligation, where they are relevant for taxation purposes (see also the leaflet „Steuerliche Aufbewahrungsfristen von A – Z“ at www.ihk-muenchen.de > Service > Recht & Steuern > Steuern > Finanzverwaltung > Aufbewahrungsfristen).

1.1 Single entry method

Tax law allows persons who are not obliged to perform double-entry accounting to determine taxable profit using a simpler method, known as the single entry method (SEM for short). The entrepreneur is subject to fewer obligations when using the single entry method than for double-entry accounting. In accordance with the principle, profits are determined by comparing operating revenue and expenses

\[
\text{Operating revenue} - \text{expenses} = \text{profit or loss.}
\]

In principle, the single entry method must be implemented in standardised form. The form prescribed for this purpose, together with instructions and a leaflet on the single entry method can be found online at the website of the CCI for Munich and Upper Bavaria at www.ihk-muenchen.de
> Service > Recht & Steuern > Steuerrecht > Einkommensteuer / Körperschaftsteuer > Einnahmenüberschussrechnung. From assessment period 2017 onwards, all businesses which determine their profit (or loss, respectively) according to the single entry method, are generally obliged to transmit their data electronically in a specific standardized form to the competent tax authority. In the past, if annual operating revenue for such businesses was less than 17,500 Euros, there was an exception according to which neither a specific standardized form for determining the respective profit/loss nor electronic filing of such form was obligatory(i.e.d, paper filing was allowed). However, effective, as of assessment period 2017, generally no such relief is granted by the tax authorities any longer. Hence, also such businesses are generally obliged to file the respective form (appendix “EÜR”) electronically, e.g. bei way of ELSTER software, to the tax authorities.

The key variable for the SEM is basically the actual timing of the inflow or outflow of payments made or received. Business transactions are recorded in a journal in chronological order. When doing so, it is advisable to sort the individual entries, for example according to cost type. If you are subject to VAT / entitled to deduct input tax, the net remuneration, value added tax (VAT) and overall amount must be individually recorded. In addition to the journal, a cash book is maintained to record all cash transactions. Commercial operators are also obliged to record incoming and outgoing goods. The last point, however, only applies if the goods are supplied to other commercial operators for resale or consumption.

1.2 Balance sheet accounting / double-entry accounting

When determining profit using the operating assets comparison, the business assets at the end of the financial year are compared with the business assets at the end of the previous financial year. The balance is the taxable profit. In this case, for those required to keep accounts or commercial traders, who keep accounts voluntarily, the business assets included are generally those which were determined in accordance with commercial law principles of regular accounting. Privately processed transactions are not taken into consideration. Accordingly, withdrawals must be added and deposits taken away.

If you are obliged to implement double-entry accounting obliged (see above), you must compile an inventory at the start of the activity and prepare an opening balance sheet. The inventory should record all economic goods of the business in material and value terms and include them in a directory (inventory). At the end of the financial year, another such inventory and closing balance sheet must be prepared. Similarly to the single entry method, records of incoming and outgoing goods must be kept. In addition, all pure payment transactions must be recorded in a cash book.

For double-entry accounting, all business transactions are booked to accounts, for both the debit
and asset sides respectively. Charts of accounts exist for this purpose, which were developed for each business from the various account systems of the industry sector. An account chart is the schematic representation of all relevant accounts, which contains only the accounts actually required for and managed by the company. Dedicated account systems are available for almost all industries.

The three most important are:

- Account system for the retail trade
- Account system for wholesale and foreign trade
- Industry account system.

Account systems are sorted into account classes in accordance with the decimal system.

Double-entry accounting is intended to determine profit for the relevant period. For this reason, there is also a need to handle deferred items, make provisions and post receivables or payables. Unlike the single entry method, therefore, not only the actual payment flows are relevant.

Balance sheets and profit and loss calculations for financial years commencing after 31 December 2012 should be sent electronically to the tax office. Information on electronic balance sheets (E-Balance) is also available on our homepage [www.ihk-muenchen.de](http://www.ihk-muenchen.de) > Service > Recht & Steuern > Steuerrecht > Einkommensteuer / Körperschaftsteuer > Die elektronische Bilanz.

**Note:** If you lack previous experience of accounting matters, we recommend consulting a specialist.

### 1.3 Specific profit determination issues

**Write-downs**

The write-down takes account of the reduction in value of fixed assets in a company, corresponding to their useful life expectancy. The optimal tool for estimating the expected useful life is the set of fixed-asset depreciation tables, published by the Federal Ministry of Finance. The table for generally usable fixed assets is also available at [www.ihk-muenchen.de](http://www.ihk-muenchen.de) > Service > Recht & Steuern > Steuerrecht > Einkommensteuer / Körperschaftsteuer > AfA-Tabelle.

The basic rule provides for deductions based on equivalent annual reductions (straight-line depreciation). Procurement costs for depreciable economic goods of fixed assets must, in principle, be depreciated evenly over their useful life. Relevant examples may include procurements of computers, vehicles, office machinery and similar objects. However, immediate deduction is possible for economic goods with procurement costs of up to 410 (from January
Economic goods up to and including 410 (from January 2018: 800) Euros: Low-value economic goods (depreciable economic goods of fixed assets) with a procurement value up to and including 410 (from January 2018: 800) Euros (net) can be deducted in full in the year of procurement or manufacture as operating expenses. If they exceed an amount of 150 (from January 2018: 250) Euros (net), the details must be listed in a separate directory updated on an ongoing basis, including the day of procurement, production or contribution of the economic good or the opening of the business and the procurement or production costs. The directory need not be maintained if the details in question are clear from the accounting.

Economic goods over 150 (from January 2018: 250) and up to and including 1,000 Euros: As an alternative to the previous above-mentioned immediate deduction, for economic goods over 150 (from January 2018: 250) Euros (net) and up to and including 1,000 Euros (net), a collective accounting entry can be booked based on the year. The economic goods summarised in the same can then be written down proportionately over a period of five years. Actual changes within the collective entry are not taken into consideration.

Economic goods over 1,000 Euros: For economic goods with procurement costs exceeding the 1,000 Euro limit, the linear write-down must be spread over the useful life.

Write-downs according to the contribution of economic goods within the business

Business start-ups often involve economic goods being contributed to the business, although they were previously used privately (for example passenger vehicle). In this case, if economic goods of the depreciable fixed assets are involved, write-downs are also possible in this case. In principle, the contribution is made at the partial value or based on the amortised procurement costs. If the contributed economic good has not been used to date to accrue surplus revenues, the fair value should mainly be written down on the remaining useful life. However, if the economic good has already been used before its contribution to accrue surplus revenues, the additional write-downs are calculated in accordance with the fair value if the fair value is lower than the procurement or production costs. For more detailed information, see BMF correspondence of 27 October 2010, Az. IV C 3 – S 2190/09/10007. This is accessible via the list of links at the side of www.ihk-muenchen.de > Service> Recht & Steuern > Steuerrecht > Sonstiges Steuerrecht > Steuertipps für Existenzgründer.

Formation expenses

Costs incurred already before the commencement of business can be applied as so-called...
anticipated expenses, if they are related to the future company, e.g. leasing of operating premises, procurement costs for office furniture etc. The economic relevance is the main consideration here, rather than any temporal connection. Special features relevant to the founding of a joint-stock company must be observed. The founding of a joint-stock company is executed in three steps:

- **Company in formation (regular GbR, up to conclusion of the articles of association or notarisation of the statute)**
- **Pre-company (from conclusion of the articles of association or notarisation of the statute)**
- **Joint-stock company (from entry in the commercial register).**

The pre-company and the subsequent joint-stock company are treated as a taxable entity for income tax purposes. This means the expenses during the pre-company period – but not the period of the company in formation – can be accounted for as business expenses. Where applicable, the latter would be taken into consideration when assessing income tax for the respective shareholders. Under trade tax provisions, pre-companies and joint-stock companies are considered to be a single taxable item, if the pre-company has an external presence prior to any entry of the joint-stock company in the commercial register. Accordingly, when determining the trade income, the expenses of the pre-company shall be taken into consideration. As a rule, however, the taxable entity of the joint-stock company is established from the point of entry in the commercial register.

### 2. The most important taxes

Whenever a business is opened, the tax office sends each entrepreneur a [questionnaire for fiscal registration](http://www.ihk-muenchen.de) (retrievable at www.ihk-muenchen.de > Service > Recht & Steuern > Steuern > Sonstiges Steuerrecht > Steuertipps für Existenzgründer). This must be completed with details of personal data and particularly estimated profit and additional income. For commercial traders, the tax office is informed of the company establishment by the trade office. Self-employed persons must indicate their activity to the tax office of their own accord.

#### 2.1 Income tax

The basis for income tax assessment is the taxable income of an individual within the assessment period. In principle, the assessment period is the calendar year. The Income Tax Act (Income Tax Act) recognises a total of seven types of income, which are subject to income tax. The scope also includes income from the trade business and independent work (so-called profit income). The process of determining the income to actually be taxed proceeds (in simplified form) as follows:

- **Total income from the various income sources**
- **Retirement tax allowance**
- **Relief amount for single parents**
= Overall income
- Loss carry-forward or carryback
- Special expenses
- Exceptional costs
= Income
- Sundry tax allowances
= Taxable income

**Accrued losses**

In principle, losses are taken into account for tax purposes. The loss relief primarily applies for income of the same kind, or alternatively with positive income from other sources. This means, for example, that a loss from commercial activity can also be offset with positive income from letting and leasing. Since 2013, losses of up to 1 million Euros which cannot be taken into consideration in a specific assessment period (and for jointly taxed married couples up to 2 million Euros) can be carried back to the previous assessment period. However, for trade tax purposes, a loss carryback is not possible. Losses exceeding this figure can be carried over. Losses of up to 1 million Euros (and for jointly taxed married couples up to 2 million Euros) can be offset without restriction in this respect. Any amounts can be offset as part of the loss carry-forward to 60%. Losses that cannot be offset can be carried forward to future years without restriction.

**Income tax rate**

If, in accordance with the existing scheme, the taxable income determined is under the tax-free allowance, no taxes need be paid. Within the progression zone, the tax rate rises progressively based on income. For any amount exceeding currently nearly 55,000 Euros, the rate remains in a proportional zone, namely the marginal tax rate is a constant 42%. Only when the amount exceeds around 255,000 Euros will the marginal tax rate rise to a second proportional zone of 45% (so-called wealth tax).

<table>
<thead>
<tr>
<th>Unmarried / non jointly assessed couples</th>
<th>2017</th>
<th>2018</th>
<th>from 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tax-free allowance</strong></td>
<td>8,820 Euro</td>
<td>9,000 Euro</td>
<td>9,168 Euro</td>
</tr>
<tr>
<td><strong>Entry income tax</strong></td>
<td>14 %</td>
<td>14 %</td>
<td>14 %</td>
</tr>
<tr>
<td>Progression</td>
<td>↓</td>
<td>↓</td>
<td>↓</td>
</tr>
<tr>
<td><strong>Tax rate</strong></td>
<td>42 %</td>
<td>42 %</td>
<td>42 %</td>
</tr>
<tr>
<td><strong>Applicability</strong></td>
<td>From 54,058 Euros up to 256,303 Euros</td>
<td>From 54,950 Euros up to 260,532 Euros</td>
<td>From 54,961 Euros up to 265,326 Euros</td>
</tr>
<tr>
<td><strong>Tax rate</strong></td>
<td>45 %</td>
<td>45 %</td>
<td>45 %</td>
</tr>
<tr>
<td><strong>Applicability</strong></td>
<td>From 256,304 Euros</td>
<td>From 260,533 Euros</td>
<td>From 265,327 Euros</td>
</tr>
</tbody>
</table>
For jointly assessed couples, in principle, double-entry tax allowances and income limits shall apply.

As part of new regulations introduced under corporate tax reform in 2008, the reporting self-employed individual, subject to various requirements, was given the option of so-called preferential tax treatment for retained profits. This meant that profits not taken out of the company would initially be taxed at only 28.25% (+ solidarity surcharge). If the profits were taken out, they would have subsequently subject to tax at 25% (+ solidarity surcharge).

**Note:** The preferential tax treatment for retained profits is generally only of benefit, if no withdrawals are made for an extended period, which exceed the ongoing profit and which would thus be subject to the regular tax burden (one-off tax) in the upper bracket. The basic rule is that preferential tax treatment for retained profits is not beneficial if the personal income tax rate is under 28.25% plus solidarity surcharge.

**Assessment / prepayment**

At the end of the calendar year or the financial year, the income tax and solidarity surcharge for the taxpayer are assessed. This is done using a two-part method. First of all, the preliminary investigation, in which the tax bases are determined (revenues, special expenses etc.) and secondly, the determination procedure, in which the tax liability is defined and notified in the form of a tax assessment. In general, income tax is collected by assessment, while for wage tax and capital gains tax – special forms of income tax – by tax deduction.

During the assessment period, the taxpayer must make **prepayments** equivalent to the anticipated income tax. The tax office defines the level of prepayments with a preliminary income assessment. The prepayments are based on the income tax, which was defined at the most recent assessment. The first prepayments in the year of the business start-up will be fixed in accordance with the details in the business start-up form. The income tax prepayments are payable quarterly, namely each 10 March, 10 June, 10 September and 10 December.

As a taxpayer, you must submit a tax declaration following the assessment period by 31 May of the following year. If you have a tax adviser, the deadline can be extended up to 31 December, the stated deadlines may be extended in individual cases if extenuating circumstances apply. Since the assessment period 2011, taxpayers with retained income have been obliged to submit their tax declarations electronically to the tax office. For double-entry accounting, the balance sheet and profit-and-loss calculation must also be transmitted electronically as a data set. Please see our homepage for more detailed information at [www.ihk-muenchen.de](http://www.ihk-muenchen.de) > Service > Recht &
Wage tax

The wage tax is a special form of income tax, which is collected via deduction from wages. The employee is the party liable for the wage tax. If you provide work to employees, you are obliged to withhold the wage tax from each wage payment, report the same via electronic means (authenticated since 2013 with an electronic certificate) and make payment of the same to the tax office. This must be done no later than 10 days after the wage tax registration period. The wage tax registration period, in principle, equates to the calendar month. If the wage tax for the previous year was more than 1,080 Euros but did not exceed 5,000 Euros, the registration period is the calendar quarter. For a wage tax in the previous year of less than 1,080 Euros, the wage tax registration for the year must be issued.

In addition to the wage tax, the solidarity surcharge and, where applicable, the church tax must also be withheld for the employee and paid. In Bavaria, the church tax rate is currently 8%, while the nationwide solidarity surcharge is 5.5%. The assessment basis is the wage tax of the employee to be withheld. Special features apply for short-term and minor employment contracts.

2.2 Corporate tax

Corporate tax is levied on all incorporated companies and applies to the entire scope of their revenues. It starts to apply with conclusion of the notarial articles of association or with notarisation of the statutes. Up to this point, the entity is deemed to constitute a so-called company in formation and although it may be exempt from corporate tax depending on circumstances, it is liable for payment of income tax (see here also Formation expenses in section 1.3). Since the assessment period of 2008, the tax rate for incorporated companies has been 15% inclusive (+ solidarity surcharge). The determination period is, in principle, the calendar year but a differing financial year may also be possible. The corporate tax prepayments are due at the same time as the income tax prepayments. Once the assessment period has elapsed, a tax declaration must also be submitted electronically (see here Assessment / prepayment, section 2.1). The taxable profit is determined by a comparison of operating assets in accordance with the provisions of the Income Tax Act and the Corporate Tax Act (KStG).

Flat-rate withholding tax / partial income method

Distributed profits / dividends from the joint-stock company to shareholders are also subject to taxation on income for the same as income from capital assets. Based on the previous definitive tax applied at the company level, the relevant amount would thus be subject to double taxation. To avoid this, a decision is thus made at shareholder level, as to whether the shares in the joint-stock
company are held as private assets of an investor (individual) or as business assets of a partnership. Thus, since 2009, dividends for private individuals have been subject to a flat-rate withholding tax of 25% plus solidarity surcharge and where applicable church tax (church tax deduction from 2015 has been made automatically.) If the personal income tax rate is under 25%, on application and as part of personal tax assessment, tax can be applied at the lower personal tax rate. For shares held as business assets, since 2009, accrued dividends have been up to 40% tax-exempt as part of the partial income method. 60% of dividends are subject to the personal income tax rate of the shareholder. This allows double taxation on the profit distribution to be mitigated.

2.3 Trade tax

Following the Corporate Tax Reform in 2008, the trade tax has, in principle, been retained in its previous form. All domestic business enterprises are subject to trade tax. As previously, members of the independent professions need not pay trade tax. For sole proprietorships, the tax debtor is the entrepreneur, on whose behalf business is transacted, while for partnerships and incorporated companies, the tax debtor is the company.

Trade income

The assessment basis for tax is trade income. The basis for trade income is the profit determined in accordance with the Income Tax Act or Corporate Tax Act. This is then adjusted by various tax additions and reductions. The Corporate Tax Reform Act in 2008, with effect from the survey period of 2008, introduced numerous new features for the tax additions. Now, for example, all interest expenses incurred at the rate of 25% must be added to the trade tax base. All additional add-back criteria, such as the lump sum financing shares for rents, leases and leasing payments have been incorporated. In addition, a tax allowance of 100,000 Euros based on the sum of interest components is incorporated.

Calculating trade tax

The Corporate Tax Reform 2008 introduced the following key changes to the methods used to calculate trade tax:

Overview

<table>
<thead>
<tr>
<th>The following applies from survey period 2008:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade tax index number</td>
<td>3.5 %</td>
</tr>
<tr>
<td>Weighting factor of trade tax on income tax for partnership</td>
<td>3.8</td>
</tr>
<tr>
<td>Operating expense deduction for trade tax</td>
<td>No</td>
</tr>
<tr>
<td>Tax allowance for sole proprietorships, partnerships</td>
<td>Yes</td>
</tr>
</tbody>
</table>
For all companies:
In accordance with the regulations of Corporate Tax Reform 2008, the scope to deduct trade tax as an operating expense applies to both partnerships as well as incorporated companies. To offset the resulting increase in the assessment basis for trade tax, the trade tax index number was defined at 3.5% for all commercial operations.

<table>
<thead>
<tr>
<th>The trade tax is thus calculated as follows:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade tax = trade income x 3.5% x assessment rate.</td>
</tr>
</tbody>
</table>

Sole proprietorships / partnerships:
The weighting factor of the defined tax rate is now 3.8-fold. Accordingly, this means that given sufficient income tax, trade tax can be completely credited against income tax, up to an assessment rate of around 380% or 400% including solidarity surcharge. The tax-free allowance applicable to date, of 24,500 Euros for proprietorships/partnerships remains applicable.

Example:

<table>
<thead>
<tr>
<th>Trade income of OHG: 50,357 Euros</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rounded 50,300 Euros</td>
</tr>
<tr>
<td>minus allowance 24,500 Euros</td>
</tr>
<tr>
<td>Adjusted trade income 25,800 Euros</td>
</tr>
<tr>
<td>25,800 Euros x 3.5% 903 Euros</td>
</tr>
<tr>
<td>Tax rate 903 Euros</td>
</tr>
</tbody>
</table>

The tax rate is then multiplied by the assessment rate of the respective community, in which the business is based:

Trade tax liability: 903 Euros x 490% (Munich) = 4,424.70 Euros.

Incorporated companies:
For incorporated companies, as previously, no tax-free allowance applies. There is also no crediting. The new regulation means the individual trade tax rate of the communities has more impact than the actual tax burden incurred to date.

Prepayments
The taxpayer must make prepayments to the community, on 15 February, 15 May, 15 August and 15 November, in which the business is located and as of the end of the survey period (which generally means the calendar year), submit a tax declaration to the competent tax office (for company headquarters). The prepayments are then offset against the tax liability.

2.4 Value added tax (VAT)
VAT is levied on revenues earned by an entrepreneur domestically in the course of transacting business operations. This primarily applies to revenues from goods deliveries or other services, e.g. services rendered. An entrepreneur is any individual who independently engages in commercial or professional activity. The tax rate is 19%, and for certain revenues just 7%. The reduced tax rate applies e.g. for books and newspapers, for many foodstuffs and also for the provision of specific passenger transport services.
Tax exemptions

Certain revenues are exempt from VAT. These particularly include export deliveries and intra-community supplies.

VAT advance return / input tax deduction

In general, you source advance services from other companies, which you require to establish your own service. The preliminary supplier will invoice you for VAT in this case. This amount, which is termed input tax, can be offset against the VAT payable to the tax office when supplying goods or rendering other services. Since the VAT obligation already applies as soon as entrepreneurial activity commences, input tax amounts incurred following procurements made by business start-ups can also be levied by the tax office. When founding a GmbH company, the pre-company and GmbH are regarded as a single entity for tax purposes.

Example: During the reporting period, you transact goods purchases valued at 10,000 Euros plus 1,900 Euros input tax and goods sales valued at 15,000 Euros plus 2,850 Euros VAT. The sum payable to the tax office is 950 Euros (2,850 Euros - 1,900 Euros) as VAT prepayment.

As a start-up founder, you must also submit monthly VAT advance returns for the first two years. Otherwise, the prepayment period is, in principle, the calendar quarter, unless the tax for the previous calendar year amounts to more than 7,500 Euros. In this case and also in accordance with the first two years after founding, monthly declarations must be made. If the VAT to be remitted for the previous year amounted to less than 1,000 Euros, the tax office may exempt the entrepreneur from the obligation to make declarations and prepayments.

No later than 10 days after each reporting period, the entrepreneur must submit a VAT advance return electronically via "ELSTER" to the tax office as well as remitting the calculated amount of VAT liable at the same time. If the result is an input tax surplus, because the amount of input tax paid exceeds the VAT received, the excess will be refunded by the tax office. However, note that the refund may be contingent on providing security collateral, e.g. a bank guarantee.

The tax will, in principle, be calculated according to agreed fees (debit taxation procedure). This means it does not depend on whether the customer has already made payment. The VAT applies with effect from rendering of service. In derogation thereof, on application, the so-called Actual Taxation may be applied. In this case, the payment of VAT is made in accordance with the agreed - i.e. accrued fees, provided the following requirement is met: The revenue for the previous year or that of the year of founding must not exceed 500,000 Euros.

Caution: Members of independent professions may, in principle, apply Actual Taxation, without having to meet the above requirement.
**VAT declaration**

Once the calendar year is over, the entrepreneur must submit a VAT declaration, in which he/she personally calculates the VAT payable amount or the excess for the whole calendar year. The entrepreneur is obliged to submit such VAT annual declarations electronically to the tax office. To avoid imposing unreasonable burdens, the tax office may, in exceptional cases and on application, allow the submission of the VAT annual declaration on the officially prescribed form with a personal signature.

**Issuing of invoices**

If an entrepreneur renders a service to another entrepreneur for his/her company or to a legal entity without entrepreneurial status, he/she is **obliged** to issue an invoice. The obligation can be waived for certain tax-exempt services, e.g. for credit mediation, letting and leasing, etc. Similarly, for services rendered to private recipients, this obligation may also, in principle, be waived. The exception is the compulsory issuance of invoices for **services of entrepreneurs in connection with a property** (e.g. construction works, gardening, maintenance operations in and on buildings, window cleaning). In such cases, the entrepreneur is obliged, even for services rendered to a **private recipient**, to issue an **invoice within six months** (section 14 para. 2 p. 1 No. 1 VAT Act (USTG)). If a service in connection with a property is billed to an entrepreneur, this invoice must also be issued within six months. In the event that an invoice for a service in connection with a property is not issued at all or issued too late, this may incur a fine of up to 5,000 Euros.

The invoice must include the following **details**:

- Complete name and address of the entrepreneur rendering the service
- The full name and address of the service recipient
- VAT identification number or if not applicable, tax number issued by the tax office
- Issue date
- Serial invoice number
- Quantity and normal trade description of the object or the type and scope of the service rendered
- Time of supply or rendering of service
- Fees itemised by tax rates and exemptions.
- Any previously agreed reductions in fees, e.g. refunds, bonuses or rebates, where not already taken into consideration in the fee charged
- the applicable tax rate and taxable amount attributable to the fee concerned, set out separately or where applicable details of any tax exemption
• for services in connection with a property, a note reaffirming the retention obligation of the service recipient
• Details of the "credit note" when the invoice is issued by the service recipient or by a third party commissioned by the same.

An example of a sample invoice is included annexed to this leaflet.

For invoices for small amounts, where the overall amount does not exceed 250 Euros (including VAT), a simplification rule applies. For the purpose of input tax deduction, the following details on the invoice suffice:

• Complete name and address of the entrepreneur rendering the service
• Issue date
• Quantity and normal trade description of the object supplied or the type and scope of the service rendered
• The fee and the total tax payable on the same
• The applicable tax rate or if a tax exemption applies, a note to that effect.

Similar simplifications also apply to fare cards.

**Small business regulation**

For entrepreneurs, where the total turnover in the year of founding is not likely to exceed an estimated 17,500 Euros, no VAT is levied by law, namely they need not pay the same to the tax office. The same applies for years after the founding, provided the following two conditions apply: the total turnover in the previous year did not exceed 17,500 Euros; and in the current year, is unlikely to exceed an estimated figure of 50,000 Euros. However, it should be noted that entrepreneurs who assert the small business regulation as described, cannot claim any input tax. This, in turn, may be a disadvantage, e.g. when a business makes significant investments subject to VAT during its initial stage. Accordingly, there is scope to waive application of the small business regulation by making a declaration to the tax office, which will subsequently mean that input tax deduction may also be possible. However, this decision should be made carefully, because it will subsequently apply with binding effect for five years.

**International issues**

Certain international issues are governed by special regulations. These include, for example, imports and exports, intra-community supplies and acquisitions as well as cross-border services rendered and the reverse-charge method. See here separate leaflets, retrievable at [www.ihk-muenchen.de](http://www.ihk-muenchen.de) > Service > Recht und Steuern > Umsatzsteuer.
3. Legal form selection and taxes

The legal form of your company impacts on the ultimate tax burden imposed and should thus be considered at the time of start-up. However, this should never be the sole deciding factor for the choice of legal form. Other points are also relevant, such as liability, legal form expenses, publication requirements and scope for capital procurement.

The following table should provide an overview of the key tax-relevant aspects of legal form selection:

<table>
<thead>
<tr>
<th></th>
<th>Sole proprietorship / partnership</th>
<th>Joint-stock company</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue tax</strong></td>
<td>• income tax</td>
<td>• Corporate tax</td>
</tr>
<tr>
<td></td>
<td>• Progressive rate (see above 14% to 45%)</td>
<td>• Uniform tax rate: 15%</td>
</tr>
<tr>
<td></td>
<td>• Tax-free allowance</td>
<td>• No tax-free allowance on distributions from 2009: Partial income method or flat tax</td>
</tr>
<tr>
<td></td>
<td>• Depending on circumstances, optional preferential tax treatment for retained profits with subsequent taxation</td>
<td></td>
</tr>
<tr>
<td><strong>Trade tax</strong></td>
<td>• Tax index number: 3.5%</td>
<td>• Tax index number: 3.5%</td>
</tr>
<tr>
<td></td>
<td>• Tax allowance of 24,500 Euros</td>
<td>• No tax allowance</td>
</tr>
<tr>
<td></td>
<td>• Crediting of 3.8x the trade tax amount on income tax</td>
<td>• No crediting against corporate tax</td>
</tr>
<tr>
<td><strong>Offsetting of losses</strong></td>
<td>• against other types of income of the entrepreneur is possible</td>
<td>• No setting-off against losses of the entrepreneur</td>
</tr>
<tr>
<td></td>
<td>• Loss carry-forward and carry-back</td>
<td>• Only scope for loss carry-forward and carry-back within the joint-stock company</td>
</tr>
<tr>
<td><strong>Profit determination</strong></td>
<td>• Performance-related remuneration (e.g. “Salary” = part of the entrepreneurial profit = entrepreneur’s salary) and pension provisions are not deductible as expenses</td>
<td>• Entrepreneur’s salary, pension provisions and loan interest are expenses</td>
</tr>
<tr>
<td></td>
<td>• Double-entry accounting or single entry method</td>
<td>• Obligation to ensure double-entry accounting</td>
</tr>
</tbody>
</table>

Note: The publishing of leaflets is a service provided by the Chamber of Commerce and Industry for Munich and Upper Bavaria for its member companies. It constitutes a summary presentation of basic legal precepts, which is limited to initial pointers and makes no claim of completeness. It is not intended to replace legal advice in individual cases. Although the greatest care was taken when compiling it, no liability can be accepted for the correctness of its content.
Example invoice with VAT:

**MC Hifi-Markt GmbH**
HiFi Video TV PC household appliances

MC Hifi-Markt GmbH  
Musterstraße 5  
70000 Musterstadt  
Tel.: 07000 700-12  
E-mail: info@aussteller.de  
VAT ID No. DE123456789

Mr. Markus Empfänger  
Primelweg 32  
80000 Primelhausen

**Invoice No. 284629**  
**Date: September 21, 2018**

Dear Recipient,

We are hereby invoicing as follows for the supply of a TV set on September 21, 2018:

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Designation</th>
<th>Price/Euros</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>TV 110 cm, Phillips, type designation 284406</td>
<td>310.92</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Net price</th>
<th>310.92</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>19% VAT</td>
<td>59.07</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total price</td>
<td>369.99</td>
</tr>
</tbody>
</table>

We grant a 2% discount for payment within 7 days of delivery.

Managing director:  
Dipl. Oec. Hans Muster  
Dipl. Oec. Georg Cerno

Bank details:  
Kreissparkasse Musterstadt  
IBAN: DE 32 70150000 0012345678  
BIC: SSKM DE MMXXX

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1 also applies to sole proprietors, partnerships and other incorporated companies