

## Corporation Tax Act (KStG)

### § 5 Exemptions

(1) The following shall be exempt from corporation tax

1.

The Federal Railway Assets, the state lottery companies and the Petroleum Stockholding Association pursuant to section 2(1) of the Petroleum Stockholding Act of January 16, 2012 (BGBl. I p. 74), as amended;

2.

Deutsche Bundesbank, Kreditanstalt für Wiederaufbau, Landwirtschaftliche Rentenbank, Bayerische Landesanstalt für Aufbaufinanzierung, Niedersächsische Gesellschaft für öffentliche Finanzierungen mit beschränkter Haftung, Bremer Aufbau-Bank GmbH, Landeskreditbank Baden-Württemberg-Förderbank, Bayerische Landesbodenkreditanstalt, Investitionsbank Berlin, Hamburgische Investitions- und Förderbank, NRW. Bank, Investitions- und Förderbank Niedersachsen, Saarländische Investitionskreditbank Aktiengesellschaft, Investitionsbank Schleswig-Holstein, Investitionsbank des Landes Brandenburg, Sächsische Aufbaubank - Förderbank -, Thüringer Aufbaubank, Investitionsbank Sachsen-Anhalt - Anstalt der Norddeutschen Landesbank - Girozentrale -, Investitions- und Strukturbank Rheinland-Pfalz, Landesförderinstitut Mecklenburg-Vorpommern - a division of Norddeutsche Landesbank Girozentrale -, Wirtschafts- und Infrastrukturbank Hessen - a legally dependent institution within Landesbank Hessen-Thüringen Girozentrale, and Liquiditäts-Konsortialbank Gesellschaft mit beschränkter Haftung;

2a.

The Federal Agency for Special Tasks Arising from Unification;

3.

pension, death benefit and health insurance funds with legal capacity which grant a legal entitlement to the persons who benefit or are to benefit from the benefits of the fund (beneficiaries), and support funds with legal capacity which do not grant a legal entitlement to the beneficiaries,

a)

if the fund is limited to

aa)

to members or former members of one or more economic businesses, or

bb)

to members or former members of the central associations of the non-profit welfare organizations (Arbeiterwohlfahrt-Bundesverband e.V., Deutscher Caritasverband e.V., Deutscher Paritätischer Wohlfahrtsverband e.V., Deutsches Rotes Kreuz, Diakonisches Werk - Innere Mission und Hilfswerk der Evangelischen Kirche in Deutschland as well as Zentralwohlfahrtsstelle der Juden in Deutschland e.V.) including their subdivisions, facilities and institutions and other non-profit welfare organizations or

cc)

to employees of other corporations, associations of persons and estates within the meaning of Sections 1 and 2; persons who are in a relationship similar to that of an employee shall be deemed to be employees;

In each case, their relatives shall also be counted as members or employees;

b)

if it is ensured that the operation of the fund constitutes a social institution in accordance with the business plan and the type and amount of benefits. 2This requirement is met in the case of provident funds that grant benefits on a case-by-case basis only if these benefits, with the exception of death benefits, are limited to cases of hardship or unemployment;

c)

if, subject to Section 6, the exclusive and direct use of the assets and income of the fund is permanently ensured for the purposes of the fund in accordance with the articles of association and the actual management;

d)

if, in the case of pension, death and health insurance funds, at the end of the financial year for which the value of the actuarial reserve is to be actuarially calculated, the assets to be shown in accordance with the principles of proper accounting under commercial law, taking into account the business plan as well as the general insurance conditions and the technical business documents within the meaning of Section 219 (3) No. 1 of the Insurance Supervision Act, do not exceed, in the case of a mutual insurance association, the loss reserve and, in the case of a fund of a different legal form, the part of the assets corresponding to this reserve. 2In determining the assets, a provision for premium refunds shall be deductible only to the extent that the beneficiaries are entitled to the surplus participation. 3If the assets of the Fund exceed the designated amount, the Fund shall be liable to tax in accordance with the provisions of Section 6(1) to (4); and

e)

if, in the case of provident funds, the assets at the end of the financial year, without taking into account future pension benefits, do not exceed the permissible fund assets increased by 25 percent. 2Section 4d of the Income Tax Act shall apply to the determination of the actual and permissible fund assets. 3If the assets of the fund exceed the amount referred to in sentence 1, the fund shall be liable for tax in accordance with section 6(5);

4.

Smaller mutual insurance companies within the meaning of Section 210 of the Insurance Supervision Act, if,

a)

their premium income on average over the last three fiscal years, including the fiscal year ending in the assessment period, has not exceeded the annual amounts to be determined by statutory order, or

b)

their business operations are limited to death benefit insurance and the insurance associations constitute social institutions according to the business plan and the type and amount of benefits;

5.

Professional associations not governed by public law as well as central municipal associations at federal or state level, including their associations, if the purpose of these associations is not directed toward commercial business operations. 2The tax exemption is excluded,

a)

insofar as the corporations or associations of persons maintain a commercial business operation or

b)

if the professional associations use funds of more than 10 percent of their income for the direct or indirect support or promotion of political parties.

3Sentences 1 and 2 shall also apply to associations of legal entities under public law which, like the professional associations, look after the general non-material and economic interests of their members. 4If professional associations use funds for the direct or indirect support or promotion of political parties, the corporate income tax shall be 50 percent of the contributions;

6.

Corporations or associations of persons whose main purpose is the management of assets for an unincorporated professional association of the type referred to in No. 5, provided that their income is essentially derived from such asset management and accrues exclusively to the professional association;

7.

Political parties within the meaning of section 2 of the Political Parties Act and their regional associations, unless the respective party is excluded from partial state funding pursuant to section 18(7) of the Political Parties Act, as well as municipal voters' associations and their umbrella associations. 2If a commercial business operation is maintained, the tax exemption shall be excluded to that extent;

8.

Insurance and pension institutions under public law of professional groups whose members are members of this institution by virtue of an obligation imposed by or based on law, if the statutes of the

institution do not permit the payment of annual contributions higher than twelve times the contributions that would result from a contribution assessment base equal to twice the monthly contribution assessment limit in the general pension insurance. 2If the statutes of the institution only permit compulsory memberships and voluntary memberships that immediately follow a compulsory membership, this shall not prevent the tax exemption if the statutes do not permit the payment of annual contributions higher than fifteen times the contributions that would result from a contribution assessment basis in the amount of twice the monthly contribution assessment limit in the general pension insurance;

9.

Corporations, associations of persons and estates which, according to their articles of association, foundation or other constitution and according to their actual management, serve exclusively and directly charitable, benevolent or ecclesiastical purposes (Sections 51 to 68 of the German Fiscal Code). <sup>2</sup>If a commercial business operation is maintained, the tax exemption shall be excluded to this extent. <sup>3</sup> Sentence 2 shall not apply to self-managed forestry operations;

10.

Cooperatives as well as associations, insofar as they

a)

Produce or acquire dwellings and let them to members for use on the basis of a lease agreement or on the basis of a cooperative use agreement; rooms in dormitories within the meaning of Section 15 of the Second Housing Act shall be deemed equivalent to dwellings;

b)

manufacture or acquire communal facilities or subsequent facilities in connection with an activity within the meaning of subsection a and operate them if they are predominantly intended for members and the operation by the cooperative or association is necessary.

<sup>2</sup>The tax exemption shall be excluded if the income of the enterprise from the activities not specified in sentence 1 exceeds 10 percent of the total income. <sup>3</sup>If the enterprise receives income from the supply of electricity from installations for which it is entitled to payment of a tenant electricity surcharge under the conditions of section 21(3) of the Renewable Energy Sources Act, the limit in sentence 2 for this income shall be increased to 20 percent if the limit in sentence 2 is exceeded only by this income. <sup>4</sup>Income pursuant to sentence 3 shall also include income from the additional supply of electricity within the meaning of section 42a(2) sentence 6 of the Energy Industry Act and income from the feed-in of electricity from such installations. <sup>5</sup>Investing members within the meaning of Section 8(2) of the Cooperatives Act shall not be members within the meaning of sentence 1. <sup>6</sup>Sentence 1 shall also apply to contracts for the temporary accommodation of homeless persons concluded with legal entities under public law or with taxable persons within the meaning of No. 9 who are members. <sup>7</sup>An order for admission pursuant to the regulatory authority laws of the Länder shall be deemed equivalent to the conclusion of a contract within the meaning of sentence 6;

11.

(omitted)

12.

The non-profit settlement enterprises established or recognized by the competent state authorities within the meaning of the Reich Settlement Act as amended or corresponding state laws, insofar as these state laws do not substantially deviate from the provisions of the Reich Settlement Act, and within the meaning of the land reform laws of the states, insofar as the enterprises carry out settlement, agricultural structure improvement and land development measures in rural areas with the exception of housing construction. <sup>2</sup>The tax exemption shall be excluded if the income of the enterprise from the activities not referred to in sentence 1 exceeds the income from the activities referred to in sentence 1;

13.

(omitted)

14.

Cooperatives as well as associations, insofar as their business operations are limited to

a)

to the joint use of agricultural and forestry operating facilities or operating objects,

b)

to services rendered within the scope of service or work contracts for the production of agricultural and forestry products for the operations of the members, if the services are in the field of agriculture and forestry; this also includes services for the construction and maintenance of farm equipment, farm roads and land improvements,

c)

on the processing or utilization of agricultural and forestry products obtained by the members themselves, if the processing or utilization is in the field of agriculture and forestry, or

d)

on consultancy for the production or utilization of agricultural and forestry products of the members' holdings.

2The tax exemption is excluded if the income of the enterprise from the activities not specified in sentence 1 exceeds 10 percent of the total income. 3In the case of cooperatives and associations whose business operations are predominantly limited to conducting milk quality and milk performance tests or to animal insemination, the special-purpose transactions with non-members aimed at these activities shall not be taken into account when calculating the 10 percent limit;

15.

the Pensions-Sicherungs-Verein Versicherungsverein auf Gegenseitigkeit,

a)

if, with the permission of the insurance supervisory authority, it exclusively performs the tasks of the insolvency insurance institution resulting from the Act on the Improvement of Occupational Pensions of December 19, 1974 (BGBl. I p. 3610), and

b)

if its benefits, in terms of the group of recipients and the nature and amount thereof, do not exceed the scope specified in sections 7 to 9, 17 and 30 of the Act on the Improvement of Occupational Retirement Provision;

16.

Corporations, associations of persons and estates, insofar as they

a)

fulfill their statutory duties as deposit guarantee schemes within the meaning of Section 2 (1) of the Deposit Guarantee Act and as compensation institutions within the meaning of the Investor Compensation Act; or

b)

as contractual deposit protection schemes not recognized as deposit guarantee schemes and institution-based protection schemes within the meaning of Section 61 of the Deposit Guarantee Act have, according to their articles of association or other constitution, the sole purpose of safeguarding deposits or providing assistance in the event of danger to the fulfillment of the obligations of a credit institution within the meaning of Section 1 (1) of the German Banking Act or a financial services institution within the meaning of Section 1 (1a) sentence 2 numbers 1 to 4 of the German Banking Act or supporting deposit guarantee schemes within the meaning of Section 2 (1) of the German Deposit Guarantee Act in the fulfillment of their duties.

2An additional prerequisite for the tax exemption pursuant to sentence 1 is that the assets and any surpluses generated are used on a permanent basis solely to achieve the statutory purpose or the purpose set out in the Articles of Association. 3Sentences 1 and 2 shall apply mutatis mutandis to security funds within the meaning of Sections 223 and 224 of the Insurance Supervision Act and to institutions for securing deposits at housing cooperatives with savings facilities. 4The tax exemption shall be excluded for economic business operations which are not exclusively directed towards the fulfillment of the beneficiary tasks;

17.

Guarantee banks (credit guarantee associations) whose activities are limited to the performance of economic development measures, in particular in the form of the assumption and administration of state

guarantees and sureties or of sureties and guarantees with state counter-guarantees or on the basis of state-recognized guidelines vis-à-vis credit institutions, insurance companies, leasing companies and holding companies for loans, leasing claims and participations in medium-sized companies for their establishment and for the maintenance and promotion of their performance. 2Prerequisite is that the assets and any surpluses generated are used only to achieve the purpose specified in sentence 1;  
18.

Economic development corporations whose activities are limited to improving the social and economic structure of a specific region by promoting the economy, in particular by attracting industry, creating new jobs and cleaning up contaminated sites, if regional authorities predominantly hold shares in them. It is a prerequisite that the assets and any surpluses generated are used only to achieve the purpose specified in sentence 1;  
19.

Joint port operations within the meaning of Section 1 of the Act on the Creation of a Special Employer of Port Workers of August 3, 1950 (Federal Law Gazette I p. 352), insofar as they carry on activities specified in Section 2 (1) of this Act and approved in accordance with Section 2 (2) of this Act. 2It is a prerequisite that the assets and any surpluses generated are used only for the performance of the beneficiary activities. 3If a commercial enterprise is maintained whose activities are not exclusively directed towards the fulfillment of the beneficiary activities, the tax exemption shall be excluded to that extent;

20.

Associations of legal persons under public law, of tax-exempt corporations or of tax-exempt associations of persons,

a)

whose activity is limited to the purpose of compensating, by means of the pay-as-you-go procedure, the pension burdens incurred by the members from pension commitments to their employees,

b)

if at the end of the fiscal year the assets do not exceed 60 percent of the benefits provided to the members during the fiscal year;

21.

the working groups Medical Service of the Health Insurance Funds within the meaning of Section 278 of the Fifth Book of the German Social Security Code and the Medical Service of the Central Associations of the Health Insurance Funds within the meaning of Section 282 of the Fifth Book of the German Social Security Code, which are not established in the legal form of a public corporation, insofar as they perform the tasks assigned to them by law. 2The prerequisite is that the assets and any surpluses generated are used only to achieve the purposes specified in sentence 1;

22.

Joint institutions of the parties to collective bargaining agreements within the meaning of Section 4 (2) of the Collective Bargaining Agreement Act of August 25, 1969 (BGBl. I p. 1323), which pay statutory contributions on the basis of Section 186a of the Employment Promotion Act of June 25, 1969 (BGBl. I p. 582) or on the basis of collective bargaining agreements and provide benefits exclusively to employees of the trade who are bound by collective bargaining agreements or to their surviving dependents, if in doing so they do not compete with non-tax-privileged enterprises of the same or a similar kind to a greater extent than is unavoidable in the performance of their beneficiary tasks. 2If an economic business operation is maintained whose activity is not exclusively directed towards the fulfillment of the beneficiary activities, the tax exemption shall be excluded to that extent;

23.

The commissioned research of scientific and research institutions under public law; if the activity is directed toward the application of proven scientific knowledge, the assumption of project sponsorship, and economic activities not related to research, the tax exemption is excluded to this extent;

24.

The Global Legal Entity Identifier Foundation, insofar as the Foundation carries out activities directly related to the introduction, maintenance and further development of a system for the unique identification of legal entities by means of a reference code to be applied worldwide.

(2) The exemptions under subsection (1) and under laws other than the Corporation Tax Act shall not apply to

1.

To domestic income that is subject to tax withholding in whole or in part; the same shall apply mutatis mutandis to the income referred to in the second half of the first sentence of Section 32(3),

2.

for limited taxpayers within the meaning of section 2 no. 1, unless they are taxpayers within the meaning of paragraph 1 no. 9 who are taxable persons under the laws of a Member State of the European Union or under the laws of a State to which the Agreement on the European Economic Area of 3 January 1994 (OJ EC No. L 1 p. 3), as last amended by Decision of the EEA Joint Committee No. 91/2007 of July 6, 2007 (OJ EC No. L 328 p. 40), as amended, are companies within the meaning of Article 54 of the Treaty on the Functioning of the European Union or Article 34 of the Agreement on the European Economic Area whose registered office and place of management are located within the territory of one of these states, and an administrative assistance agreement exists with these states,

3.

insofar as Section 38 (2) is applicable.

### Footnote

(+++ § 5: For application see § 34 +++)

(+++ § 5 par. 1 no. 3 letter d and no. 4: For first-time application cf. § 34 par. 3 (F 2015-04-01) +++)

(+++ § 5 par. 1 no. 8: For first-time application see § 34 par. 3a +++)

(+++ § 5 par. 1 no. 10: For first-time application cf. § 34 par. 3b +++)

(+++ § 5 par. 1 no. 16: For first-time application cf. § 34 par. 3c +++)

(+++ § 5 par. 1 no. 16 sentences 1 and 2: For first-time application, see § 34 par. 3 sentence 3 +++)

(+++ § 5 par. 1 no. 16 sentence 3: For first-time application cf. § 34 par. 3 (F 2015-04-01) +++)

(+++ § 5 par. 1 no. 23: For application cf. § 34 par. 3c +++)

(+++ § 5 par. 1 no. 24: For first-time application cf. § 34 par. 3 +++)

(+++ § 5 par. 2 no. 1: For first-time application cf. § 34 par. 2a +++)

(+++ § 5 par. 2 no. 2: For application cf. § 34 par. 5a +++)