

**Tax Code of the Federal Republic of Germany**  
**Source: Federal Ministry of Justice and Consumer Protection**

**Extract**

**Third section Tax-beneficiary purposes**

**Section 51 General**

1. If the law grants a tax advantage because a corporation pursues exclusively and directly charitable, charitable or church purposes (tax-deferred purposes), the following provisions shall apply. Corporations are corporations, associations of persons and assets within the meaning of the Corporation Tax Act. Functional subdivisions (departments) of corporations are not considered to be independent tax subjects.
2. Where the tax-deferred purposes are implemented abroad, the tax advantage presupposes that natural persons domiciled or habitually resident within the scope of this Act are encouraged or that the activities of the corporation may contribute not only to the realisation of the tax-advantaged purposes but also to the reputation of the Federal Republic of Germany abroad.
- (3) A tax advantage also presupposes that the corporation does not promote any efforts within the meaning of Section 4 of the Federal Constitutional Protection Act in accordance with its statutes and in its actual management and does not violate the idea of international understanding. In the case of entities listed as an extremist organisation in the Federal or Land's Report on the Protection of the Constitution, it is to be irrevocably assumed that the conditions of sentence 1 are not met. The tax authority shall communicate facts to the Office for the Protection of the Constitution that give rise to suspicions of aspirations within the meaning of Section 4 of the Federal Constitutional Protection Act or of violating the idea of international understanding.

**Footnote**

(+++ Section 51: For the application, see Art. 97, Section 1d.2 AOEG 1977 +++)

**Section 59 Condition of the tax advantage**

The tax advantage is granted if it is apparent from the statutes, the foundation's business or the other constitution (statutes within the meaning of these provisions) the purpose of the corporation, that that purpose corresponds to the requirements of sections 52 to 55 and that it is pursued exclusively and directly; the actual management must comply with these articles of association.

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**Section 60 Requirements for the Articles of Association**

1. The purposes of the Statutes and the manner in which they are implemented shall be defined in such a way as to allow the statutes to be used to determine whether the statutory conditions for tax advantages are met. The statutes must contain the provisions referred to in Appendix 1.
2. The statutes shall comply with the prescribed requirements for corporation tax and business tax throughout the assessment or assessment period, in the case of other taxes at the time when the tax was created.

**Footnote**

(+++ Section 60 (1) sentence 2: For application, see Art. 97(2) AOEG 1977 +++)

## **Section 60a Determination of the statutory requirements**

(1) Compliance with the statutory requirements in accordance with Sections 51, 59, 60 and 61 shall be established separately. The determination of the statute is binding on the taxation of the corporation and the taxable person who makes contributions to the corporation in the form of donations and membership fees.

(2) The determination of the statute is established

1. at the request of the corporation or
2. ex officio in the assessment of corporation tax, if no determination has yet been made.
3. The binding effect of the assessment shall be waived from the date on which the legislation on which the assessment is based is repealed or amended.
4. If there is a change in the circumstances relevant to the assessment, the assessment shall be annulled with effect from the date of the change in circumstances.
5. Material errors in the notice of determination of the statute may be remedied with effect from the calendar year following the notification of the annulment of the assessment. Section 176 shall apply accordingly, unless calendar years shall be amended which begin after the pronouncement of the authoritative decision of a Federal Supreme Court.

## **Section 61 Statutory asset commitment**

(1) A financially sufficient commitment to assets (Section 55 (1) point 4) exists if the purpose for which the assets are to be used in the event of the dissolution or abolition of the corporation or the abolition of its previous purpose is specified in the Articles of Association in such a way that it is possible to check on the basis of the statutes whether the intended use is tax-advantaged.

(2) (discarded)

3. If the provision on fixed assets is subsequently amended in such a way that it no longer complies with the requirements of Paragraph 55(1) (4), it shall be deemed not sufficient for tax purposes from the outset. Paragraph 175(1) sentence 1(2) applies on the condition that tax notices may be issued, repealed or amended in so far as they relate to taxes incurred within the last ten calendar years preceding the amendment of the provision on the fixed assets.

### **Footnote**

(+++ Section 61: For the first application from 1.1.2007 see Art. 97 s. 1d AOEG 1977 +++)