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## **Client information: Tax relief and innovations through the Growth Opportunities Law**

Dear Client,

Germany has started the year 2024 with a number of uncertainties. The economic engine is stuttering and not everything is running smoothly in government and legislation either. Shortly before the turn of the year, for example, significant parts of the planned federal budget were declared unlawful by the Federal Constitutional Court, which required time-consuming political repair work. One well-intentioned legislative step was the planned Growth Opportunities Law with its bundle of **tax relief** measures, which was actually due to be passed at the End of 2023

Nothing came of this at first. After the law was submitted to the Mediation Committee for several months and the original relief volume of € 7 billion was reduced to € 3.2 billion, the regulations passed the Bundesrat on 22 March 2024.

Nevertheless, a whole series of interesting innovations remain, such as a **better deduction of business expenses, more business-friendly depreciation rules and improvements to loss carryback.**

The protracted legislative process has caused some confusion regarding the expected changes. We have therefore decided to,

use various sections of our client information to explain what the German government had originally planned with its draft and, in a concluding digression, also outline the most important **unrealized plans.**

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## 1 Income tax changes for entrepreneurs

### Private use of company electric cars

In the case of a company car, the private usage share must be taxed. An important measure for calculating this is the **price of the vehicle**. In contrast to a combustion engine, the assessment base for the taxable non-cash benefit can be **reduced to a quarter of the gross list price** for an exclusively electric company car. However, the previous requirement was that the gross list price of the electric car must not exceed € 60,000.

This limit has now been **raised to € 70,000** as part of the Growth Stimulus Act (originally, € 80,000 was even planned). If the gross list price exceeds this limit, only 50% of the "normal" taxable usage benefit for combustion engines has to be applied. The regulation applies to electric cars purchased after 31 December 2023.

### Increase in special depreciation

According to Section 7g (5) EStG, businesses that **do not exceed the profit limit of € 200,000** have the option of depreciating movable assets by up to 20% of the investment costs in the year of acquisition and in the following four years. This option exists in addition to regular depreciation. The **special depreciation** allowance has now been **increased up to 40% of the investment costs** (originally planned to be as high as 50%).

**Note:** Section 7g EStG also contains the provision on investment deductions. This can be used as a structuring tool to allow investment expenses to become effective for tax purposes before the actual acquisition.

### Temporary introduction of declining balance depreciation

As a rule, assets are depreciated over their useful life using the straight-line method with constant annual amounts. **Decreasing-balance depreciation** is now **possible for movable assets**.

This option already existed during the coronavirus crisis on the basis of corresponding special rules, which expired on 31 December 2022. The new declining balance depreciation will amount to up to 20% of the acquisition costs, but no more than twice the straight-line depreciation.

With declining balance depreciation, the depreciation amounts are initially quite high, but decrease in later years. This allows depreciation potential to be realized earlier for tax purposes. Application of the new

regulation to movable assets acquired or manufactured **after 31 March 2024 and before 1 January 2025**.

### Extensions to the loss carryforward

Under current law, it is only possible to **offset current profits against existing loss carryforwards for income and corporation tax purposes** up to a base amount of € 1 million and, beyond this, up to 60% of the profit exceeding € 1 million (so-called minimum profit taxation). of the profit amount exceeding € 1 million (so-called minimum profit taxation). **This means** that no matter how many losses a company has carried forward from previous years, a tax burden always remains for current profits of more than € 1 million in one year. For jointly assessed spouses (in the area of income tax), the base amount is € 2 million.

The percentage limit of previously 60 % will **now be raised to 70 %** for a limited period from 2024 to 2027. Before the Mediation Committee took action, as much as 75 % was planned (also for trade tax). From 2028, the old limit of 60 % will be applied again for minimum profit taxation.

### Increase in the limit for gifts to business associates

Previously, gifts to business associates were subject to an exemption limit of € 35 per recipient per year. This limit has **now been raised to € 50**. If the limit is exceeded, the entire gift expense for the recipient in question is not deductible in the year in question.

### Flat rates for additional meal expenses

The originally planned increase in additional meal expenses was not implemented. The previous regulations remain in place. Accordingly, a flat rate of € 28 applies for each calendar day on which there is an **absence of 24 hours** from home and the first place of work. A lump sum of **€ 14** applies for absences of **more than eight hours and less than 24 hours** from the home and primary place of work.

**Note:** In contrast, the flat rate for professional drivers who spend the night in the vehicle was increased from € 8 to € 9.

### Increase in the limits for tax accounting obligation

If there is no accounting obligation under commercial law anyway, tax law provides for a separate accounting and bookkeeping obligation above certain limits. A simplified determination of profits by means of a **revenue surplus**

**calculation** is then no longer possible. Previously, the limits for commercial entrepreneurs and farmers and foresters were an annual turnover of more than € 600,000 or an annual profit of more than € 60.000. For financial years after 31 December 2023, the limits have now been raised to **€ 800,000 in revenue** or **€ 80,000 profit** respectively.

## 2 What's new in Value Added TAX (VAT)

### Mandatory use of e-invoices

From 2025, the obligation to use e-invoicing for invoices **between companies** (so-called business-to-business or B2B) will be introduced. This represents a milestone in the digitalization of accounting.

**Note:** Only invoices that are issued, transmitted and received in a structured electronic format and that can be processed electronically are considered electronic invoices. This type of invoice is then generally the only permissible form of invoice in terms of VAT.

An invoice in the form of a simple PDF, for example, which is sent by email, is then no longer considered an electronic invoice. If the prescribed electronic format is not used, this can have a negative impact on VAT in particular. The legal priority of paper invoices is to be removed in this context. However, there should also be **exceptions: Small-value invoices** and **invoices to consumers** (B2C) as well as **transport documents** can continue to be issued in paper format.

For transactions carried out **between 1 January 2025 and 31 December 2026** in the B2B area (i.e. between entrepreneurs), another invoice in paper form or in another electronic format is also possible instead of an electronic invoice in accordance with the new requirements. However, the prerequisite here is that **the recipient agrees**. For entrepreneurs whose total turnover in the previous calendar year did not exceed € 800,000, a paper invoice will still be possible until 31 December 2027.

Use of the so-called **EDI procedure** was originally planned between 1 January 2026 and 31 December 2027. This remains the case in principle, although the procedure can still **be used beyond 2027** under certain conditions. To this end, it must be possible to correctly and completely export the information required under the VAT Act.

**Note:** The new electronic invoice format creates the first prerequisites for a reporting system for electronic invoices to the tax authorities. This will make it possible to check invoices in real time and combat VAT fraud more effectively. It is not yet clear when exactly this reporting system will be introduced. If the current timetable remains unchanged, 2024 will be the year in which companies will be preparing for the new invoicing standards from 2025. In the future, extensive adjustments to company software (e.g. ERP systems) will probably be necessary.

### Exemption from the advance VAT return

Until now, entrepreneurs have been exempt from the obligation to submit an advance VAT return and pay the advance payment if the tax for the previous calendar year did not exceed € 1,000. This limit will be **increased to € 2,000**, but the new regulation will only **apply from 2025**.

### Annual VAT return for small business owners

Although small business owners are generally exempt from submitting advance VAT returns, they had to submit annual VAT returns (with manageable information on the amount of turnover). From 2024, **this obligation will now generally no longer apply**.

### Increase in the limits for actual taxation

The limit for calculating tax based on the **consideration received** (actual taxation) **instead of the consideration agreed** (debit taxation) will be raised from € 600,000 **to € 800,000**. The regulation applies with retroactive effect from 2024.

## 3 New regulations for landlords

### Degressive depreciation for new rental properties

Within a limited period of time, declining balance depreciation (AfA) will be introduced for residential buildings in decreasing annual amounts. This **declining balance depreciation amounts to 5% per year** and is always calculated on the book value of the previous year. The original draft still envisaged a rate of 6 %.

As long as declining-balance depreciation is applied, deductions for extraordinary technical or economic wear and tear are not permitted. However, it is possible **to switch to straight-line depreciation** in these cases. Depreciation can also be applied to residential buildings outside Germany in the EU or the European Economic Area.

In general, residential buildings must be used for the purpose of generating income, i.e. for letting. In general, no building depreciation can be deducted for owner-occupation.

Degressive depreciation is possible if the construction of the building **begins after 30 September 2023 and before 1 October 2029**. If the building is purchased, declining balance depreciation is only possible if the purchase contract is legally concluded after 30 September 2023 and before 1 October 2029.

### Special depreciation for new rental housing

Special depreciation allowances can already be claimed for the construction of new rental apartments. The special depreciation amounts to **5 % of the acquisition or production costs** in each of the first four years and can be used in addition to the regular building depreciation. The regulation applies to construction measures based on a building application submitted after 31 August 2018 and before 1 January 2022 or after 31 December 2022 and before 1 October 2029 (previously 1 January 2027) or a building notification made during this period. In order to obtain the benefit, **new, i.e. previously non-existent, living space must be created**. The acquisition or production costs of the building were previously not allowed to exceed € 4,800 per square meter of living space. The Growth Opportunities Act **increases this limit to € 5,200**.

## 4 Changes for various taxpayers

### Tax rate reduction only in the assessment procedure

A reduced tax rate is provided for certain forms of wages, such as severance payments and remuneration for multi-year employment. Previously, these special features had to be taken into account when calculating wage tax as part of payroll accounting. As this procedure is complicated for employers, it has now been removed as part of the Growth Opportunities Act. Employees can continue to claim the rate reduction in the **assessment procedure**, i.e. they must prepare a tax return.

### Higher exemption limit for private sales transactions

The annual exemption limit for gains from private sales transactions has been **increased** from the current € 600 **to € 1,000**. In particular, this also includes gains from cryptocurrencies if there is less than one year between purchase and sale.

### Tax relief on pensions and annuities

The Growth Opportunities Act brings relief for recipients of pension benefits (e.g. company pensions) and pensioners. Starting in 2023, i.e. retroactively from today's perspective, the **percentage value to be applied for calculating the pension allowance** will no longer be reduced in annual steps of 0.8 percentage points, but only by 0.4 percentage points. As a result, the maximum amount and supplement to the pension allowance will decrease more slowly from the 2023 tax year.

In the case of pension taxation, 100 % taxation would already have been reached in 2040 under the previous regulation. Due to the new legislation, this will not happen until 2058. In addition, the reduction in the old-age relief amount will be slowed down.

## 5 Excursus: Unrealized projects

The following projects in particular, which were still included in the draft bill, were ultimately **not realized**:

- a. Reporting obligation for national tax arrangements: It can be said that taxpayers have been spared a veritable bureaucratic monster. However, the possibility of it being taken up again in subsequent legislative procedures cannot be ruled out.
- b. Introduction of an exemption limit for income from letting and leasing: € 1,000 per year was planned here.
- c. Increase in the tax-free allowance for company events to € 150: Instead, it remains at € 110 per year.
- d. Increase in the limit for low-value assets (GWG) to € 1,000: It remains at the previous € 800 per independently usable asset.

If you have any questions about the growth opportunities the new law opens up for you personally, please contact us!

Yours sincerely,  
ATC Team