

Amendments on the basis of the
2008 Corporate Tax Reform Act

Subject	Keyword	Explanation	Effective date
Corporation tax	Corporation tax rate (§23 [German] Corporation Tax Act - KStG)	The corporation tax rate will be reduced by 10 percentage points from 25% to 15%.	01.01.2008
Trade tax	Trade tax rate ("Steuermesszahl") (§11, sub-paragraph 2 [German] Trade Tax Act - GewStG)	The trade tax rate is reduced from 5 to 3.5 and applies uniformly to all enterprises liable for trade tax.	01.01.2008
	Offsetting against personal income tax (§35 EStG)	In future, the personal income tax of an entrepreneur liable for trade tax may be reduced by 3.8 times the trade tax assessment base instead of 1.8 times. The same applies to co-proprietors in a partnership in relation to their proportion of the trade tax owed.	01.01.2008
	No deduction upon calculation of profit (§4, sub-paragraph 5b EStG)	Trade tax is no longer deductible as an operating expense within the scope of calculation of profit.	01.01.2008
	Additions (§8 GewStG)	Trade tax additions will entail several changes in the amount. In future, not only interest on long-term debt is to be added, but also all interest on debt incurred on behalf of the enterprise. Allowance: An allowance of €100,000 applies to the additional amounts calculated.	01.01.2008
Unincorporated enterprises	Retention of profit by unincorporated enterprises (new: §34a EStG)	The purpose of the new ruling is to impose a rate of tax on the income of sole traders and partners from agriculture and forestry, trading and self-employment in a comparable way to the income of an incorporated enterprise. The proportion of profit from equity in an enterprise or partnership determined in accordance with the balance sheet comparison, and	01.01.2008

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		<p>which the taxpayer did not take in the financial year, should, upon application, no longer be subject to the taxpayer's personal progressive tax rate, but merely to a reduced tax rate of 28.25% (plus solidarity surcharge).</p> <p>If the profit is taken in subsequent years, subsequent tax will be applied at a rate of 25% (plus solidarity surcharge).</p>	
Tax on capital assets	Final flat-rate withholding tax, with assessment option (§43a, new: §32d EStG)	For private investors, income from capital assets, particularly interest, dividends and profits from sales transactions, is subject to a final flat rate withholding tax of 25%. The tax is deducted at source. In this respect private investors no longer have a duty to declare said income. If the investor's personal income tax rate is below that of the final flat-rate tax, assessment and thus taxation at the lower personal tax rate may be selected.	01.01.2009
	Gain on disposal (§20, sub-paragraph 2 EStG)	Profit acquired after 31 December 2008 from the private disposal of equity in incorporated companies will be subject to full withholding tax, irrespective of any holding period (final flat-rate withholding tax). Existing legislation continues to apply to the disposal of securities acquired before 1 January 2009, (tax exemption after a holding period of one year or half income system upon disposal within said holding period).	01.01.2009
	Half income method	The half income method will no longer apply to private investors after introduction of the final flat-rate withholding tax.	01.01.2009
	Partial income method (§3, sub-paragraph 40 EStG)	From 1 January 2009, the partial income method will apply to income held in operating capital from equity in an incorporated company. Thereafter, all capital income accruing after 31 December 2008 will only be taxed at 60%. Expenditure relating to said income must correspondingly be regarded as tax-reducing even at a level of only 60%. The same applies to sales profit from operations.	01.01.2009
Depreciation	Depreciation for wear and tear (§7 [German] Income Tax Act) - EStG)	In future, only linear depreciation of movable fixed assets may be applied, corresponding to their respective useful life.	01.01.2008

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	Assets with acquisition costs of up to €150 (§6, sub-paragraph 2 EStG)	The possibility of immediate depreciation of low-value assets will now only apply if the acquisition costs are under €150.	01.01.2008
	Assets with acquisition costs of between €150 and €1,000 Pool valuation (§6, sub-paragraph 2a EStG)	Expenditure on all movable assets purchased in any one year for between €150 and €1000 is added together for the respective financial year and written off uniformly over five years. The depreciation amounts remain unchanged, even if assets are withdrawn or sold within the depreciation period.	01.01.2008
	Investment deduction amount formerly future investment allowance (§7 EStG)	The maximum amount of the deduction increases from €154,000 to €200,000, unlike the existing rule under §7g EStG. The period in which the actual acquisition of the asset is to take place increases from two to three years after the profit-reducing deduction has been claimed. Unlike the old arrangement, the asset to be purchased need not be as new.	01.01.2008
Financing costs	Interest deduction ceiling (new: §4h EStG, §8a [German] Corporation Tax Act - KStG)	<p>Tax relief on loan interest for incorporated enterprises, sole proprietorships and partnerships which are part of a group is restricted in certain cases by the introduction of an interest deduction ceiling. Interest expenses are fully deductible in the amount of the interest earned in the same financial year. Furthermore, the deduction is limited insofar as the amount of the remaining interest expense exceeds 30% of EBITDA (earnings before interest, tax, depreciation and amortisation). Non-deductible interest expenses may be taken into account in subsequent years when calculating the profit of the enterprise within the scope of the interest deduction ceiling.</p> <p><u>Exceptions:</u></p> <p>"Group clause" Enterprises which are not part of a group are not covered by the interest deduction ceiling except in cases of detrimental equityholder borrowing in the case of incorporated enterprises.</p>	01.01.2008

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		<p>Exemption limit: The deduction of interest payable is not limited if the balance from interest expenditure and interest income is below the exemption limit of €1,000,000.</p> <p>"Escape clause" Depending on the amount of the equity ratio of the enterprise compared to the equity ratio of the group, an unlimited deduction of interest payable is possible in certain cases, i.e. the interest deduction ceiling does not apply.</p>	
Other amendments	Purchase of a shell company (new: §8c KStG)	<p>The existing stipulation governing the purchase of a shell company in respect of the limit on deduction of losses in the case of legal entities will be amended with effect from the 2008 assessment period, affecting assignments of equity after 31.12.2007. The new stipulation allows for a two-stage loss limit:</p> <ul style="list-style-type: none"> - Consequently, assignments of equity or voting rights of more than 25% and up to 50% will entail a pro rata wiping out of loss in the amount of the detrimental assignment of equity. - Assignment of more than 50% equity or voting rights will entail full wiping out of loss. 	01.01.2008
	Conversion to an incorporated enterprise (new: § 20, sub-paragraph 9 of the [German] Conversion Tax Act - UmwStG)	The conversion of an enterprise, division or partnership share into an incorporated enterprise subject to unlimited tax in return for the grant of equity entails loss of the interest carried forward in accordance with §4h, sub-paragraph 1, clause 2 EStG.	01.01.2008
	Conversion to a sole proprietorship or partnership (§ 4, sub-paragraph 2 UmwStG)	Upon transfer of assets of a legal entity to an unincorporated enterprise, losses which can be offset, remaining losses carried forward and negative income not balanced by the transferring legal entity, or interest carried forward in accordance with §4h, sub-paragraph 1, clause 2 EStG (new) are not transferred to the accepting unincorporated enterprise.	01.01.2008