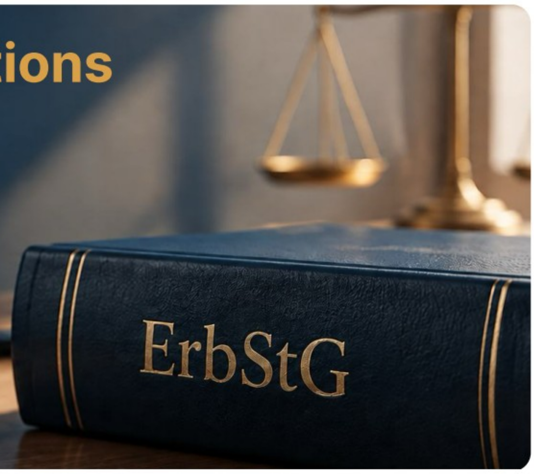
Inheritance Tax: Allowances & Exemptions

§ 3 ErbStG - “Acqusiton upon death”...



The official terminology alone makes one thing clear: in Germany, inheritance law and tax law are closely interconnected.

Accordingly, tax authorities also examine whether taxes are due when an estate is transferred – and ensure that they receive their share. However, numerous allowances and exemptions leave considerable room for tax-free transfers.

1 Allowances

The personal allowances (A) apply to each beneficiary and can also be used for lifetime gifts. Once ten years have passed, they can be used again in full.

A Personal Allowances

Beneficiary	Tax cl.	Allowance
Spouse / registered civil partner	I	500.000 €
Children (incl. adopted & stepchilds)	I	400.000 €
Grandchildren (If children have already died)	I	200.000 € 400.000 €
Parents and grandparents (in case of lifetime gifts)	I II	100.000 € 20.000 €
All other persons	III	20.000 €

B Special allowances

Pension allowance	
Spouse / registered civil partner	256.000 €
Children up to 5 years	52.000 €
6 - 10 years	41.000 €
11 - 15 years	30.700 €
16 - 20 years	20.500 €
21 - 27 years	10.300 €

(in each case, reduced by tax-exempt pension benefits)

2 Deductions for estate costs

Costs incurred in connection with the estate can be deducted from the taxable acquisition.

Estate costs For funeral expenses, probate and estate administration, as well as other qualifying costs, either a lump-sum allowance can be claimed without proof or the actual costs can be deducted if properly documented.	Lump sum or actual costs	15.000 €

3 Specific tax excemptions (limited amounts)

In addition to the personal allowances, inheritance tax law provides further tax exemptions for certain assets and transfers. These may be capped, partial or complete.

Household and clothing + other moveable property	Tax class I: Tax classes II & III:	41.000 € 12.000 € 12.000 €
Care and maintenance Anyone who has provided care or maintenance to the deceased for a longer period may claim an allowance for the value of these services, provided they were not adequately compensated.		20.000 €

So far, tax-free or tax-relieved transfers can amount to up to:

844.000 € to spouses / partners	1.854.000 € in a classical family constellation	67.000 € in tax class III

Inheritance tax: The really big levers

€1,854,000 tax-free inheritance is already considerably more than a small fortune.

But the really big levers come next:
Certain types of assets can be exempt from inheritance tax partially or even completely – in some cases without a fixed upper limit.

4 Specific tax exemptions (partial or complete)

For specific types of assets

Business assets * The standard exemption or optional exemption may apply if: • The business or shareholding is held for 5 or 7 years, • For businesses with more than 15 employees, the total payroll over this period reaches at least 80% or 100% of the previous level, respectively. • Administrative assets do not exceed 20% (optional exemption only).	Standard exemption 85% Optional exemption 100%
Agriculture & forestry * The standard exemption or optional exemption may apply if: • The retention and management period of 5 or 7 years is observed, • For businesses with more than 15 employees, the total payroll over this period reaches at least 80% or 100% of the previous level, respectively. • Administrative assets do not exceed 20% (optional exemption only).	Standard exepmtion 85% Optional exemption 100%
Cultural assets Significant works of art, collections, libraries and archives may be transferred partially or completely free of inheritance tax. Requirements include, among other things, a public interest in their preservation and appropriate use for research or public education.	60% - 100%

Important to note:

- Specific requirements apply (e.g. continuation of the business, retention periods, use).
- Tax exemptions are generally subject to reporting requirements and supporting documentation.
- Tax exemptions may be withdrawn retroactively if the requirements are not met.

*) The standard and optional exemptions apply in full up to a transfer of €26 million and are then gradually reduced by 1% for each €750,000.
Transfers of more than €90 million are excluded from the standard or optional exemption.
Under the phase-out mechanism, the maximum amount that can remain tax-free is around €34.5 million per beneficiary.

Rental residential property For inheritance and gift tax purposes, qualifying rental residential property is valued at only 90% of its tax value. Rule of thumb: The lower the rental yield – i.e. the longer it takes for the purchase price to be recovered through rental income – the more likely it is that the tax value will be below the market value.	10%
Family home exemption A self-occupied family home can pass completely free of inheritance tax to a spouse or registered civil partner upon death. For children, the exemption applies up to a living area of 200 m². Requirement: The deceased must have occupied, and the beneficiary must move in immediately and occupy it for 10+ years.	100%

5 Deemed equalization of accured gains

Around 95% of married couples in Germany live under the community of accrued gains regime.
This means that the increase in wealth accumulated during the marriage is subject to equalization when the marriage ends.
Upon death, this equalization is generally settled on a lump-sum basis by increasing the statutory inheritance share by 1/4.
For inheritance tax purposes, however, the deemed equalization claim is calculated separately. The resulting amount remains tax-free – and can be significantly higher than the additional one quarter of the inheritance share.

With the right levers, even very large fortunes can be transferred largely free of inheritance tax.
The key is to plan and structure the estate at an early stage.