

99102009002000

# Inheritance and gift tax, show acquisition of assets

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Modul	Sachverhalt
Leistungsschlüssel	99102009002000
Leistungsbezeichnung I	Inheritance and gift tax, show acquisition of assets
Leistungsbezeichnung II	Inheritance and gift tax, show acquisition of assets
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher	

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Ansprechpartner	
Fachlich freigegeben am	
Fachlich freigegeben durch	
Handlungsgrundlage	<ul style="list-style-type: none"> <li>• Bewertungsgesetz (BewG)</li> <li>• Erbschaftsteuer- und Schenkungsteuergesetz (ErbStG)</li> <li>• Sächsische Finanzamts-Zuständigkeitsverordnung (SächsFAZustVO)</li> </ul>
Teaser	Inheritance tax or gift tax is levied on acquisitions upon death, gifts inter vivos and special-purpose donations and, every 30 years, on the assets of domestic family foundations or family associations. This includes the following transactions:
Volltext	<p>Inheritance tax or gift tax is levied on acquisitions upon death, gifts inter vivos and special-purpose donations and, every 30 years, on the assets of domestic family foundations or family associations. This includes the following transactions:</p> <p>Acquisitions by reason of death</p> <p>such as, for example</p> <ul style="list-style-type: none"> <li>• Acquisition by inheritance due to legal, testamentary or contractual succession</li> <li>• Acquisition by bequest</li> <li>• Acquisition due to an asserted claim to a compulsory portion</li> <li>• Acquisition of a pecuniary advantage on the basis of a contract concluded by the testator* (e.g. life insurance)</li> </ul> <p>*) In order to remain comprehensible, we must limit ourselves in some places to the legally prescribed personal designations, they always refer to each gender - the editors</p> <p>Gifts inter vivos</p> <p>In principle, a gift inter vivos is any generous donation inter vivos, insofar as the recipient is enriched by the</p>

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donation at the expense of the donor.

The following cases are also considered to be inter vivos gifts:

- the enrichment of a spouse or registered partner in the event of a community of property agreement
- compensation for a waiver of inheritance
- Surrender of a prior heir to a subsequent heir prior to the occurrence of the subsequent inheritance

Allocations for specific purposes

These include allocations of assets which the acquirer may only use for a specific purpose.

Family foundations or family associations

The assets of a family foundation or family association are subject to substitute inheritance tax at intervals of 30 years.

Taxable assets

Which assets are taxed depends on the persons involved. As a rule, inheritance or gift tax is levied on all assets transferred, even if these are located abroad. This is referred to as "unlimited tax liability".

If neither the testator or donor nor the transferee has/had their place of residence or habitual abode in Germany, special regulations apply (so-called limited tax liability). In this case, only the so-called domestic assets are taxed. These include, in particular, real estate, business, agricultural and forestry assets located in Germany as well as shares (at least 10 per cent) in domestic corporations. However, the limited tax liability does not apply if only one of the parties involved has/had German citizenship and has not resided abroad for more than five years.

Calculation of inheritance and gift tax

Inheritance and gift tax is calculated as a percentage of the value of the acquisition less the allowances

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provided for (so-called tax rate). Each acquirer is entitled to a personal allowance, the amount of which depends on the respective relationship to the testator or donor. The tax rate is determined on the one hand by the value of the acquisition and on the other hand by the relationship of the acquirer to the testator or donor. This relationship determines the tax bracket to be taken into account. The closer the acquirer is to the testator or donor, in particular related, the lower the inheritance or gift tax.

Inheritance and gift tax accrual

Inheritance tax generally arises on the death of the testator.

Gift tax arises at the time the gift is made. This is the case when the donee has received what the donor intended him to receive and can freely dispose of it.

The circumstances at the time the tax arises (the so-called valuation date) are decisive for the calculation of inheritance and gift tax.

**Erforderliche Unterlagen**

- written notification (declaration form or informal letter)

**Voraussetzungen**

Acquisition from inheritance or donation

**Kosten**

none

**Verfahrensablauf**

Obligation to notify

Every acquisition subject to inheritance and gift tax (see "General information") must be reported to the relevant tax office within three months by the acquirer or, in the case of a gift, by the donor. The notification can be made in an informal letter or you can use a declaration form that you can obtain from the tax office.

Notification is not required under certain circumstances, for example if

- the acquisition is based on a disposition of property upon death (will or contract of inheritance) issued by a

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German court or notary and the relationship of the acquirer to the testator is clear from this, or

- the acquisition is based on a gift inter vivos or a donation for a specific purpose that has been notarised by a court or notary.

This restriction on the obligation to notify does not apply if the acquisition includes real estate, business assets, shares in corporations or foreign assets.

The notification should contain the following information:

- First name and surname, identification number (Section 139b of the Fiscal Code), occupation, residence of the deceased or donor and the acquirer
- Date and place of death of the deceased or date of execution of the gift
- Object and value of the acquisition
- Legal basis of the acquisition (e.g. statutory succession, legacy)
- personal relationship of the acquirer to the deceased or the donor (e.g. kinship, sister-in-law, employment relationship)
- previous gifts from the testator or donor to the acquirer according to the type, value and time of the individual gift

Certain organisations must also submit notifications to the tax office in the event of an inheritance or gift (e.g. probate courts, banks and insurance companies).

### Duty to declare

The competent tax office can request an inheritance tax or gift tax declaration from any party involved in the acquisition. This declaration must be submitted on an official form. Several heirs are authorised to submit the declaration jointly. In this case, it must be signed by all parties involved.

### Tax assessment

The tax debtor is generally the acquirer, in the case of a gift also the donor. The tax is assessed by the tax

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	office by means of a written tax assessment.
Bearbeitungsdauer	
Frist	<ul style="list-style-type: none"> <li>• Notification: within 3 months of becoming aware of the asset acquisition</li> </ul>
weiterführende Informationen	
Hinweise	<p>If several acquisitions are made by the same person within ten years, these are added together to determine the inheritance or gift tax.</p> <p>However, if the subsequent acquisition takes place outside this period, the tax-free amounts are granted again. In order to utilise the statutory tax-free amounts, you can make gifts by way of anticipated succession. If you have sufficient assets, it is advisable to transfer a relevant sum to future heirs in advance every ten years.</p>
Rechtsbehelf	not applicable
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	